

CITY OF MIAMI BEACH
Office of the City Manager
Letter to Commission No. 158-2005



To: Mayor David Dermer and
Members of the City Commission

Date: June 10, 2005

From: Jorge M. Gonzalez
City Manager

A handwritten signature in black ink, appearing to read "Jorge M. Gonzalez", written over the printed name.

Subject: **DESIGN REVIEW BOARD APPEAL**

Attached please find a request to review a decision of the Design Review Board pursuant to Section 118-262 of the Miami Beach Code and pursuant to City Commission Approval on the June 8, 2005 setting a public hearing requested by Hotelarama Associate LTD. File no.17369.

Handwritten initials "JMG/MEM" in black ink, written above the printed text.
JMG\MEM

c: Jorge Gomez , Planning Department Director
Robert Parcher, City Clerk

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BEFORE THE CITY COMMISSION OF MIAMI BEACH
Design Review Board File No. 17369
Commission Appeal No.

MIAMI BEACH HOTEL INVESTORS, LLC,

Petitioner,

v.

DESIGN REVIEW BOARD,
CITY OF MIAMI BEACH

and

HOTELERAMA ASSOCIATES, LTD.

Respondents.

**REQUEST TO REVIEW A DECISION OF THE
DESIGN REVIEW BOARD PURSUANT TO SECTION 118-262
OF THE MIAMI BEACH CODE WITH ACCOMPANYING BRIEF**

KENT HARRISON ROBBINS
Attorney for Miami Beach Hotel Investors, LLC
1224 Washington Avenue
Miami Beach, Florida 33139
(305) 532-0500
Florida Bar No. 275484

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BEFORE THE CITY COMMISSION OF MIAMI BEACH
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Commission Appeal No.

MIAMI BEACH HOTEL INVESTORS, LLC,

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_____ /

**REQUEST TO REVIEW A DECISION OF THE
DESIGN REVIEW BOARD PURSUANT TO SECTION 118-262
OF THE MIAMI BEACH CODE WITH ACCOMPANYING BRIEF**

Petitioner Miami Beach Hotel Investors, LLC, respectfully requests that the City Commission of Miami Beach reverse a decision rendered by the Design Review Board of the City granting an application for an extension of time to obtain a full building permit. A copy of the decision of the Design Review Board of May 6, 2005 is included in the Appendix hereto at A1 through A2.

I. JURISDICTION OF THE MIAMI BEACH COMMISSION

The Miami Beach Commission has jurisdiction pursuant to Section 118-262 of Article VI, Chapter 118 of the Miami Beach Code, as amended, which in pertinent part states:

[A]n affected person . . . may seek review of any order of the design

review board by the city commission. . . . The review shall be based on the record of the hearing before the design review board, shall not be a de novo hearing, and no new, additional testimony shall be taken. . . . Upon receipt of the request, the city clerk shall place the request for review on the city commission agenda. The city commission shall set a date and time for a hearing.

* * * * *

In order to reverse, or remand for amendment, modification or rehearing, any decision of the design review board, the city commission shall find that the design review board did not do one of the following:

- (1) Provide procedural due process;
- (2) Observe essential requirements of law; or
- (3) Base its decision upon substantial competent evidence.

See Section 118-262(a) & (b). The Design Review Procedures Ordinance, as amended, is included in the Appendix as A3 to A15.

II. FACTUAL BACKGROUND

This petition arises from the failure of the Design Review Board to require the applicant Hotelerama (1) to disclose, as required by law, the identity of the individuals having the ultimate ownership interest in the property subject of the application for an extension, and (2) to notify the owners within 375 foot radius of the property at 4441 Collins Avenue.

A. Hotelerama's Failure to Disclose Ultimate Ownership Interest

In October 1, 2003, Hotelerama Associates, Ltd. ("Hotelerama") filed an application for a Design Review approval.¹ At the time the application was filed, Hotelerama was not the only owner of the property subject of the application since by virtue of a Special Warranty Deed dated October 10, 2002, it had granted to TL Fontainebleau Tower Limited Partnership ("TL Fontainebleau") an

¹ The application of Hotelerama was filed in October 1, 2003 and is included in the Appendix as A16 to A31. The Design Review Board approved Hotelerama's application by Order of December 1, 2003 (the "Order"). The Order is included in the Appendix as A32 to A35.

ownership interest in the property.

As of this date, there has been no disclosure of interest concerning TL Fontainebleau as required by the Design Review Procedures Ordinance and the By-Laws and Rules of Order of the Design Review Board, despite the transfer of title from Hotelerama to TL Fontainebleau.² Moreover, TL Fontainebleau has sold part of its interest in that land to other individuals and entities since October 2002 but there has been no disclosure as to any of these individuals or entities either.

**B. Failure To Disclose Ownership Interest
In The Application For Design Review Approval**

On March 8, 2005, Hotelerama filed an application requesting Design Review Board review of an application for extending for six months the time to obtain a building permit (or until November 7, 2005). The request for the extension (hereinafter, the "March 8 Application") is included in the Appendix as A43.

At the time of this March 8 Application, Hotelerama again did not provide any disclosure concerning TL Fontainebleau or any of the entities and individuals who have the ultimate ownership interest of the property subject to the extension application. Property records show that TL Fontainebleau is a Florida limited partnership whose partners include JS Collins, LLC, a limited liability company, as General Partner and JS Collins II, LLC, a limited liability company, as managing member. The property records are included in the Appendix as A 44 to A47.

Additionally, at the time the application for an extension was presented,

² The By-Laws and Rules of Order of the Design Review Board is included in the Appendix as A36 to A 42.

the owners of the property were not disclosed to the Design Review Board as required by law.³ As shown in two examples of Special Warranty Deeds made on February 7 and 8 of 2005, TL Fontainebleau has transferred by deed to numerous individuals and entities part of the land subject of the request for an extension of time. These two Special Warranty Deeds and Miami Dade County Records of 202 additional deeds are included in the Appendix as A48 to A68.

C. Failure to Notify Owners Of the Hearing

Moreover, the Design Review Board ignored the failure of Hotelerama to comply with the notice requirements of Section 118-254 (b) of the Code, which require that “[n]ot less than fifteen (15) days prior to the public hearing date, . . . notice shall also be given by mail to the owners of record of land lying within 375 feet of property” See Appendix at A7.⁴

A simple search of the online Miami-Dade County public record shows that numerous undisclosed individuals and entities have acquired ownership of condominium units in Fontainebleau II within the area required to be notified. Yet none of these owners of record received notice of the hearing requesting Design Review board’s approval. Instead, Hotelerama filed a February 15, 2005 certification which shows that it mailed the Notice of hearing to itself.

Since Hotelerama failed to comply with the notice requirements of the Miami Beach City Code and the By Laws of the Design Review Board, the decision granting the application for an extension of time should be reversed.

³ See Section 118-254; Article II of the By Laws.

⁴ Article III, Section 1 of the By Laws has a similar notice requirement.

III. THE NATURE OF THE RELIEF SOUGHT

Petitioner seeks an order reversing the Order entered below by the Design Review Board granting Hotelerama's application for a six month extension of time to obtain a full building permit for the project by November 18, 2005. See Appendix, at A1 to A2. At a hearing held before the Design Review Board on April 19, 2005, these issues were raised, but were summarily rejected by the Board. A copy of the transcript of the hearing is included in the Appendix hereto as A69 to A107.

IV. ARGUMENT

As demonstrated in this Petition, the Design Review Board failed to:

- (1) Provide procedural due process; and
- (2) Observe essential requirements of law.

See Appendix at A12 to A13 (Section 118-262).

A. Petitioner Was Not Afforded Due Process

Due process requires notice reasonably calculated, under all circumstances, to apprise interested parties of the pendency of the hearing before the Design Review Board and afford them an opportunity to present their objections. Mennonite Bd. of Missions v Adams, 462 U.S. 791 (1983). While "the concepts of due process in an administrative proceeding are less stringent than in a judicial proceeding, they nonetheless apply." Miami-Dade v. Reyes, 772 So.2d 24, 29 (3rd DCA 2000). The fundamentals of procedural due process are: (1) a hearing; (2) before an impartial decision-maker, after (3) fair notice of the allegations, (4) with an opportunity to present one's own case. These

fundamentals must be applied in a meaningful manner. Fuentes v. Shevin, 407 U.S. 67, 80-82 (1972).

“Due process is a flexible concept -- that the processes required by the Due Process Clause will vary depending upon the importance attached to the interest and the particular circumstances under which the deprivation may occur.” Morrissey v. Brewer, 408 U.S. 471, 481 (1972). In this proceeding, the fundamental fairness component of due process requires the disclosure of relevant material facts concerning the ultimate ownership interest in the property subject of the application. See, e.g., Wolf v. McDonnell, 418 U.S. 539, 579 (1974) (due process clause assures that no person will be denied the opportunity to present to the judiciary allegations concerning violations of fundamental constitutional rights).

**1. The Record of The Application Of Hotelerama
Evidences The Lack of Disclosure
Concerning The Identity of The Owners of The Property**

The very integrity of the procedure at the Design Review Board has been undermined by the failure of the Applicant Hotelerama to reveal as part of its application who are the owners of the subject property. The evidence presented at the hearing shows that the property is owned by corporations, partnerships and individuals, who at this time remain unknown. See Transcript of the Hearing, at 5-8, included in the Appendix as A73 to A76. Moreover, these corporations and partnerships have failed to list the identity of their ultimate individual owners and the percentage of interest owned by each one of them. See Id. at A78 to A81.

As shown by the Special Warranty Deed dated October 10, 2002, Hotelerama transferred an interest in the property to TL Fontainebleau Tower Limited Partnership ("TL Fontainebleau"). The Special Warranty Deed is enclosed in the Appendix as A44 to A47. TL Fontainebleau is itself a Florida limited partnership whose partners include JS Collins, LLC, a limited liability company, as General Partner, and JS Collins II, LLC, a limited liability company, as managing member of the limited liability company. Although the application for Design Review Board approval was filed on or about October 1, 2003, Hotelerama failed to comply with the requirement that the ultimate ownership interest be disclosed. That same material omission was repeated when Hotelerama applied for Design Review Board's approval of an extension of time on March 8, 2005.

This lack of information deprives Petitioner of a meaningful opportunity to present a case against Hotelerama's application for an extension of time. See Transcript of the Hearing, at 10-11, included in the Appendix as A78 to A79. Petitioner can not formulate objections because the ultimate owners of the property have not been revealed.

**2. The Record Evidences The Lack of Notice To
The Owners of The Property Subject of the Application**

Additionally, petitioner was not afforded due process because certain of the owners of the property located within 375 feet of the property have not been notified, as required by Section 118-254 of the Code and the By Laws of the Design Review Board. See Transcript of the Hearing, at 14-18, included in the Appendix as A82 to A86. This failure to comply with essential procedural

requirements deprives petitioner of due process in that the public interest affected by the Hotelarama's request has not being heard on its views as to the merits of the application for an extension.

A simple search of the County record shows, various individuals and entities have acquired units in Fontainebleau II from TL Fontainebleau. Yet none of these property owners "of record" were notified as required by law.⁵

The By Laws and Rules of Order of the Design Review Board require that notice to property owners shall be given before a decision such as granting an extension is rendered. This is of particular significance here because the proposed extension threatens a constitutionally protected interest in property, but these property owners have not been apprised of this adverse action.

What constitutes proper notice of property owners is an issue analyzed by the Supreme Court of Florida in Delta Property Management Inc v. Profile investments, Inc., 875 So.2d 443 (Fla. 3004). Although Delta Property Management is a decision concerning a notice of a tax deed sale under chapter 197 of the Florida Statutes, its holding concerning proper notice applies by analogy here. As the Supreme Court stated: "The importance of notice when a person may be deprived of an interest in real property cannot be overemphasized." Id. at 447.

In Delta Property Management, the tax collector prepared a statement which listed the address of petitioner Delta as it appeared on the 1999 tax assessment rolls and forwarded the statement to the clerk of the circuit court on May 30, 2000. The clerk waited more than three months before preparing a

⁵ Additionally, T L Fontainebleau Partnership should also receive notice.

notice of tax sale, which was mailed to Delta at their address as it appeared in the 1999 rolls. The notice was returned to the clerk as undeliverable since Delta was no longer located at that address.

Faced with an action to quiet title to its property filed by the respondent Profile Investments, Delta asserted that it was still the titleholder because the clerk had failed to provide proper notice of the sale. Id. at 445. The trial court granted summary judgment in favor of Profile Investments concluding that “the clerk was not required to look beyond the statement to determine whether the names and addresses of the parties were correctly listed.” Id. The First District Court of Appeal affirmed.

On appellate review, the Supreme Court of Florida quashed the Order affirming summary judgment finding that, under the circumstances, notice using the tax records was insufficient. The Court held: “While the clerk should use the tax collector’s statement when preparing the tax sale notices, circumstances may warrant some additional action by the clerk.” Id. at 448.

As in Delta Property Management, the tax records in this case were not sufficient to provide notice since the ownership of the property has changed since the initial application was filed in 2003. The circumstances here warrant that Hotelerama’s application be denied until it properly complies with the notification to the property owners “of record” as required by Section 118-254 of the Code. Instead of notifying the owners of the hearing, the applicant Hotelerama notified itself. Moreover, the process to ascertain the names and addresses of adjoining property owners is not a difficult task for Hotelerama since

these names and addresses are readily of record and available from recorded warranty deeds, which are available on-line.

For all of these reasons, the Order should be reversed for failing to comply with due process.

B. The Design Review Board Did Not Observe Essential Requirements Of Law Established in Their By Laws

The Design Review Board has not required that Hotelerama comply with the disclosure of ownership interest requirements of the Miami Beach Code and the By Laws of the Design Review Board.

Section 118-253 of the Code imposes the responsibility for the design review process upon the Planning Department. In compliance with this Ordinance, Article II, Section 1 of the By Laws and Rules of the Design Review Board provides that:

Every application for action by the Board shall be made on the appropriate official form. . . . The Planning Department shall be responsible for determining the requirements for a complete application, which shall include, among other requirements. . . the completion and submission of a financial affidavit (in approved form) attesting to the officers and the stockholders, partners, beneficiaries or other interested parties, as applicable, so that the identity of the individuals having the ultimate ownership interest in the entity is disclosed.

See Appendix at A38. Moreover, the application form of the Design Review Board also requires that the identity of the individual having ultimate ownership interest be disclosed. See Appendix A109 to A116. Requiring full disclosure and transparency is essential to ensure that the Design Review Board fully discloses all relationships to the applicant. Potential and actual conflicts would remain hidden.

Notwithstanding these legal requirements of disclosure of ultimate ownership interest, the Board approved the application for an extension of time without requiring Hotelerama to provide the required information concerning ownership.

Moreover, the failure to disclose the ultimate owners implicates the potential violation of Section 7 of the By Laws dealing with conflict of interest.

Section 7 provides in pertinent part:

Members of the Board shall abide by the applicable provisions of Florida Statutes, Ch. 112 91195), as amended, Metropolitan Dade County, Fla. Code Ch.2 (1987), as amended, and Code of the City of Miami Beach Ch2, Art. III (1964), as amended, regarding voting conflicts and disclosures of financial interests.

See Appendix at A37. The integrity of the governmental process is compromised when an entity such as the applicant fails to comply with the ownership disclosure requirements; in view of the failure of the Design Review Board to require disclosure, as of this date, there is no way of establishing if a public official of Miami Beach has an interest, financial or otherwise, in the property subject of the application. To the extent that the Design Review Board has a fundamental duty to avoid potential or actual conflict of interests, non-disclosure is detrimental to the Board, and to the public in general because a perception is created of possible influence over the Board's decision making process and of lack of independence in the decision making process.

Finally, the failure of the Design Review Board to require Hotelerama to notify the property owners "of record" as required by Section 118-254 of the Code warrants reversal. This notification is an essential requirement of law that

was not followed by the Design Review Board.

For all of these reasons, the Order should be reversed because the Design Review Board did not observe essential requirements of law.

IV. CONCLUSION

The decision of the Design Review Board should be reversed on two grounds, the lack of disclosure of ownership and the lack of notice to the owners of record. Accordingly the Design Review Board failed to provide procedural due process and to observe the essential requirements of law.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kent Harrison Robbins", written in a cursive style.

KENT HARRISON ROBBINS
Attorney for the Miami Beach Hotel Investors, LLC
1224 Washington Avenue
Miami Beach, Florida 33139
(305) 532-0500
Florida Bar No. 275484

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was on May *16*, 2005 sent by certified mail to:

Building Director
Miami Beach Building Department
2nd Floor
1700 Convention Center Drive
Miami Beach, Florida 33139

Carter N. McDowell, Esq.
Counsel to Hotelerama
Bilzin Sumberg Baena Price & Axelrod LLP
200 South Biscayne Boulevard
Miami, Florida 33131


KENT HARRISON ROBBINS

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CITY OF MIAMI BEACH
DESIGN REVIEW BOARD MEETING

RE: DRB FILE NO. 17369
4441 Collins Avenue - Fontainebleau III

1700 Convention Center Drive
3rd Floor
Miami Beach, Florida
Tuesday, 8:40 a.m.
April 19, 2005

A 69

1 APPEARANCES:

2 KENT ROBBINS, ESQ.,
3 Attorney for Miami Beach Hotel Investors,
4 LLC.

5 BILZIN, SUMBERG, BAENA, PRICE & AXELROD,
6 LLP,
7 by CARTER N. McDOWELL, ESQ.,
8 Attorneys for the Applicant.

9 BOARD MEMBERS: Clotilde Luce
10 Janet Grant Hyman
11 Peter Chevalier
12 Gregory Neville, Chairman
13 Alex David
14 Mike Steffans
15 Thomas Mooney
16 William Cary
17 Gary M. Held

18 I N D E X

19 WITNESS

PAGE

20 Tony Brown 19
21 Stefanie Bauer 22

22
23
24
25 A 70

1 MR. MOONEY: The second request for an
2 extension of time is DRB File No. 17369. This is
3 4441 Collins Avenue, the Fontainebleau III, and
4 the applicant is requesting a six month extension
5 of time to obtain a full building permit for a
6 previously issued Design Review approval for the
7 construction of a new 18 story hotel tower and
8 staff has no objection to this request and we
9 would recommend that the request be approved
10 subject to the conditions enumerated in the Staff
11 report.

12 There may be public comment on this so --

13 MR. NEVILLE: Okay.

14 MR. McDOWELL: Good morning. For the record,
15 my name is Carter McDowell, representing the
16 applicant for the extension of time. We have
17 submitted full building permit plans for this
18 project. We submitted them in February, actually,
19 and we are working diligently to get the building
20 permit issued.

21 There is still a chance that we will have a
22 building permit issued by the May 7th expiration
23 date. We have been held up primarily by the State
24 of Florida Coastal Construction review. As
25 everyone is aware, the State got hit by four

A71

hurricanes last year. As a result, coastal construction permits have just ballooned statewide and the State Division of Beaches and Shores and the Florida Department of Environmental Protection is just overwhelmed with the applications that have been submitted.

As a result, they are taking absolutely every last day of their review process that they're entitled to under the Administrative Procedures Act. That is longer than it has historically been, and we have been trying, I can tell you, having done it personally, to get them to review our plans so that we get the permit issued timely.

But, in all candor, we just don't have any control over them. That is something that is beyond our control and is holding up the permit; otherwise, we would have the permit at this point.

I would note, because I think you're about to hear objections from Mr. Robbins who represents the neighbor, that the standard for the request for an extension of time is for good cause. I would suggest to you that a third party review agency, that is taking much longer than it has historically taken and that is something that is well beyond our control or the City's control,

A72

1 certainly constitutes good cause for the extension
2 of time.

3 We also requested an extension of time on our
4 variances, which were granted for this project and
5 that extension of time was granted a few weeks
6 ago.

7 Rather than take more time, since I'm sure
8 Kent will take some of your time, I would reserve
9 time for rebuttal and to respond to any testimony
10 and evidence that Kent may put in the record.

11 MR. NEVILLE: Thank you, Carter.

12 Anybody from the public that would like to
13 speak?

14 MR. ROBBINS: My name is Kent Harrison
15 Robbins. I'm an attorney. My offices are at 1224
16 Washington Avenue. I'm registered to speak here
17 on behalf of the Miami Beach Hotel Investors, LLC,
18 which are located at 4385 Collins Avenue, Miami
19 Beach. They own the fee simple to the property
20 immediately to the south on Collins Avenue, south
21 of the property that's subject to the hearing
22 today.

23 I would like to raise some technical issues.
24 I have a court reporter here today. We need to
25 create a record for appellate purposes. So it may

ATB

1 take a few minutes more than we usually need to
2 take in order to make certain that all the
3 documents are included in the record as we are
4 compelled to do so in order to have adequate
5 appellate review of this process.

6 First of all, in order to just expedite
7 matters, I would like to introduce into the record
8 eight items, and I want to quickly just go into
9 it. Some of them, we may be able to take judicial
10 notice of; some may not. But I might as well just
11 get them into the record now just to expedite
12 matters.

13 No. 1 is the Miami Beach Land Development
14 Regulations, Section 118251 at Sequentia, which
15 are the Design Review Board approved procedures.

16 No. 2 is the City of Miami Beach Design
17 Review Board's bylaws.

18 Exhibit 3 is the City of Miami Beach Design
19 Review and application form.

20 No. 4 four is the -- No. 3 includes the
21 instructions.

22 No. 4 is the standard application form for
23 Development Review Board hearings, disclosure of
24 interest section.

25 No. 5 is a special warranty deed dated

A 74

1 October 10, 2002 from Hotelerama Associates, LTD
2 to TL Fontainebleau Tower, Limited Partnership, a
3 Florida Limited Partnership.

4 I have provided a copy of that to --

5 MR. McDOWELL: No, you did not.

6 MR. ROBBINS: I provided it to you at the
7 last hearing.

8 I'll give you another copy then, and I'll be
9 happy to give that to you now.

10 MR. McDOWELL: You just waved it at me. You
11 did not give it to me.

12 MR. ROBBINS: Here's a copy of it.

13 And then I'm also including in there,
14 warranty deeds, two warranty deeds, and a list of
15 other owners of condominiums that were deeded from
16 TL Fontainebleau Tower Limited -- Limited
17 Partnership to Heinz Bach and Inga Bach, his wife;
18 also another warranty deed to Stuart Hauser and
19 Diane Hauser and then a list from the property
20 records of 46 other persons who were deeded
21 warranty deeds from the -- from TL Fontainebleau
22 Tower, Limited Partnership to these individuals,
23 and I'm going to submit that, and that will be my
24 last exhibit, No. 7.

25 MR. McDOWELL: For the record, I object.

A75

2
1 these and it's going to take a few moments of my
2 time to do that.

3 Here's the Design Review Board process and
4 application form. I gave you the special warranty
5 deed.

6 MR. McDOWELL: You gave me one of the 46 that
7 you had already.

8 MR. ROBBINS: Then the specialty warranty deed.
9 Here's the first one and the second one that Miss
10 Hauser, Mrs. Bach. Mr. and Mrs. Hauser and Mrs.
11 Bach, and then attached to it is a list from the
12 recorder's office from 46 other persons who
13 received title.

14 Would you like a copy of the bylaws again?

15 MR. McDOWELL: No.

16 MR. ROBBINS: I'd like to introduce that into
17 the record, and then I'd like to --

18 MR. NEVILLE: Excuse me.

19 Gary, would you like to add something?

20 MR. HELD: Well, we've heard the argument
21 previously in front of -- and I forget which board
22 it was.

23 MR. NEVILLE: Boards of Adjustment.

24 MR. HELD: Kent, out of fairness, if there's
25 a short and a long form if you can use the short

1 version, that would be appreciated, because,
2 really, what you're making are legal arguments as
3 to the efficacy of the application itself and not
4 the merits of whether there should be a
5 continuance at this point.

6 MR. ROBBINS: Well, that's correct. Our
7 contention is that the application is incomplete.
8 Under the City of Miami Beach Design Review Board
9 bylaws and rules of order, applications to the
10 Board, Article 2 of that bylaw, Section 1,
11 application: "Every application for action by the
12 Board shall be made on the appropriate form."

13 And then it goes on and says, "It shall
14 include the completion and submission of financial
15 affidavit attesting to the officers and the
16 stockholders, partners, beneficiaries or other
17 interested parties as applicable so that the
18 identity of the individuals having ultimate
19 ownership interest in the entity is disclosed."
20 That's required by the bylaws.

21 Now, also in the bylaws -- excuse me, in the
22 Design Review applicaton, it states specifically,
23 under instructions for Design Review Board
24 approval, under 2, application requirements,
25 Section 1: "A completed application form with

A 78

1 written description of the proposed action, a
2 signed and notarized owner's affidavit and the
3 completion of a disclosure of interest form," once
4 again. So this is a requirement, and then there's
5 the standard disclosure of interest form, and I'm
6 submitting those.

7 That disclosure of interest form is deficient
8 in the underlying application and should also be
9 included in the application for this extension of
10 time, a completed disclosure of interest form.

11 As you all know, disclosure of interest is
12 required in order to assure that there's no
13 conflicts among this Board. Unfortunately, that
14 disclosure has not occurred, and the requirement
15 is that all interested parties shall be disclosed.
16 And I have submitted a warranty deed that I
17 referenced earlier, which shows that Hotelerama,
18 the applicant here, in fact, had transferred some
19 of its interest to TL Fontainebleau Tower, Limited
20 Partnership back in October, 2002. That was not
21 disclosed in the disclosure form required
22 under the original application and I'd ask you to
23 take judicial notice of that form.

24 MR. McDOWELL: If I might, let me object to
25 attacking the underlying application that was

A79

1 approved more than a year ago. There was no
2 appeal filed of that application at that time.

3 MR. ROBBINS: I'm not finished.

4 MR. McDOWELL: That's trying to
5 collaterally --

6 MR. ROBBINS: I'm not --

7 MR. McDOWELL: Although it was filed more
8 than 16 months ago.

9 MR. NEVILLE: All right, Carter. Let him
10 finish, then we'll just move on

11 MR. STEFFENS: Does this have any bearing on
12 what we're doing here?

13 MR. ROBBINS: Absolutely. It's a question of
14 whether or not the application for action by the
15 Board today is complete and they're compelling
16 that all interested parties shall be disclosed
17 attesting to the officers, stockholders, partners,
18 beneficiaries or other parties as applicable.

19 MR. NEVILLE: Mr. Robbins, if they did take
20 care of this paperwork, you wouldn't have any
21 objections to the extension of permits?

22 MR. ROBBINS: Excuse me?

23 MR. NEVILLE: If they did --

24 MR. ROBBINS: No, we have substantive
25 arguments. I have my clients here, Mr. Brown

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1 who's an owner will go into the substance of why
2 it should not be extended based on the behavior
3 and activities of the applicant because of
4 bad faith on their part and failure to respect the
5 neighbors that should not be extended.

6 But that's a separate and distinct argument
7 that will be put on by sworn testimony.

8 MR. McDOWELL: Also irrelevant to the matter
9 before you. The issue is, is there good cause for
10 an extension of time. The zoning laws have not
11 changed. We have presented to you the basis for
12 good cause for extension. So all of the arguments
13 that Mr. Robbins is putting before you are
14 irrelevant.

15 MR. NEVILLE: You can have some time for
16 rebuttal, Carter.

17 MR. HELD: Just to help the Board sort
18 through some of the argument that Mr. Robbins
19 is making, those points that he is making to the
20 original application, in my mind are foreclosed*
21 because they were not appealed or part of
22 challenge within 30 days from the date of the
23 original application. Those issues that he's
24 raising as part of the current application, if
25 they had merit, are timely.

A81

1 The question is whether they had merit.

2 There's a difference of opinion as to whether to
3 who should be notified as part of an application
4 and who should be disclosed as part of an
5 application and those are issues that we just have
6 disagreement on and whether they have merit or not
7 will not be decided by this board but a probably
8 by a court if Mr. Robbins sues on those issues.

9 He is entitled, as a matter of due process,
10 to make these arguments though we do ask him to be
11 brief so we can move on with agenda.

12 MR. NEVILLE: Okay.

13 Could you be brief?

14 MR. ROBBINS: I will. I went through the
15 disclosure requirement involving interested
16 persons disclosing down from the individual
17 persons. It's clear title is transferred to TL --
18 to the Fontainebleau entity from Hotelerama. That
19 was not disclosed nor -- and they did not join in
20 the application. That's the disclosure failure.

21 Then we can go to the next step, and that's
22 the failure to give adequate notice under the
23 design review procedures, Land Development
24 Regulations, Section 118253, Section B: "Notice
25 shall be given by mail to the owners of record of

A 82

land lying within 375 feet of property. The mail notification requirement shall be the responsibility of the applicant."

Included was list of the persons who received mail notice. Those persons did not include persons of record, owners of record, who should have received notice.

MR. McDOWELL: Do you represent any of the parties?

MR. ROBBINS: May I finish my argument?

MR. NEVILLE: Carter, let him finish.

MR. McDOWELL: It's relevant as to whether he represents any of the parties.

MR. NEVILLE: Save your questions to the end. That way we can just keep this thing moving.

MR. ROBBINS: This is a jurisdictional requirement, and this is a requirement of a complete application. It compels provision and requirement, as you can see on the application form, of notice to owners of record of land lying within 375 feet of the subject property. That was not done.

That's required not only by the land development regulations, which is part of the Miami Beach code, but that notice no part owners

A 83

of record of land is required also by the City of Miami Beach Design Review Board bylaws and rules of order. That's Article 3, Section 1, notice: "Notice shall also be given by mail to owners of record of land lying within 375 feet of the subject property." That notice was not provided.

Unfortunately, 48 people that we know of, according to the records, who own condominiums who are going to directly adversely be affected by a building blocking their view of the ocean, don't even have notice of this motion for extension of time to be able to come here and object.

Now, you have a duty and a responsibility to assure that the application is complete and to assure that there's adequate notice and if 48 residents or owners of this city, who should have gotten notice did not get notice, it's incumbent upon this Board to assure that that notice is given, and they are owners of record.

Now, you're going to hear argument of counsel saying, well, they gave notice of the persons that are on the tax rolls. Well, these are the people affiliated to and who have actual knowledge and I gave him notice three weeks ago again that these

A 84

persons, 48 people, did not receive actual notice, and these are people to whom they gave transfer of title to the Fontainebleau entity, and then the Fontainebleau entity who Mr. Carter claims that he is associated with and represents and is affiliated with in the prior hearing on this matter, that entity failed; then gave title to 48 property owners. Yet those property owners to whom they have actual notice were not provided.

This is an issue of due process. These people's properties and interests are adversely affected and yet the process is not being followed when they have actual notice that 48 people for whom they gave deeds to who are going to be affected by this building being built that will block their building immediately adjacent, which was also on the Fontainebleau, originally on the Hotelarama site will now not get -- have not gotten notice and will not have an opportunity to argue here and to make arguments here.

This is a matter of fundamental due process. These are the two main issues that I'm raising at this time.

My client, Tony Brown, who is manager of the hotel will talk to you about the problems they

A 85

1 have, and I think you should be aware of that to
2 take that into consideration, which is in your
3 discretion whether or not to give this extension
4 of time, and they will make their presentation at
5 this time.

6 MR. NEVILLE: Thank you, Mr. Robbins.

7 MR. McDOWELL: Can I ask Mr. Robbins a couple
8 of questions?

9 MR. NEVILLE: Yes, go ahead.

10 MR. McDOWELL: Mr. Robbins, do you represent
11 any of the parties that are the recipients of any
12 of the deeds that you were questioned about here
13 today?

14 MR. ROBBINS: No, I do not.

15 MR. McDOWELL: Thank you.

16 MR. NEVILLE: Would anyone else from the
17 public like to speak?

18 MR. ROBBINS: I want to make it real clear.
19 Notice is a matter of due process. It does not
20 matter who I represent. It goes to this Board's
21 duty to represent the public interest.

22 If you don't have people here to complain,
23 how can you do your duty as representatives of the
24 City looking out for the public.

25 Mr. Brown?

A86

1 MR. BROWN: Good morning. I'm Tony Brown.
2 I'm the manager of Miami Beach Hotel Investors,
3 which owns the Sovereign Hotel, which is the hotel
4 directly south of the Fontainebleau properties.

5 We have, over the course of the last
6 two years, watched the building of the
7 Fontainebleau II, the demolition of the hotel next
8 door, which I thought was a historical hotel and
9 obviously they were able to tear it down.
10 We have been, I think, pretty good neighbors up to
11 this point in time. We've met with the Musses.
12 We've met with the Turnberry people and really
13 with no satisfaction whatsoever.

14 We have construction debris over our property
15 all the time. We have dust blowing in our
16 property. Our windows on the south side have been
17 ruined.

18 MR. HELD: Excuse me, Mr. Chair. I
19 apologize, but Mr. Robbins indicated that this
20 would be sworn testimony, and we didn't swear any
21 of the witnesses.

22 MR. NEVILLE: Do you want to do that?

23 MR. HELD: We should go ahead and do that.
24 Might as well do the room, the whole room. So
25 everybody who intends to testify on any of the

A87

1 matters coming before the Board today, please
2 stand and raise your right hand.

3 (Thereupon, the witnesses were duly sworn.)

4 MR. BROWN: I can go on and on, but I'm going
5 to try to make brief. I brought several photos
6 which, if allowed, I'd like to pass out to the
7 Board showing some of the debris and certainly the
8 blocking of Collins Avenue and our property.

9 I don't believe that this Board approved
10 either Fontainebleau II or Fontainebleau III with
11 the idea of the Sovereign becoming the alley,
12 the alleyway, for the Fontainebleau. That, in
13 essence, is exactly what has happened. We get
14 their garbage. It is not unusual, during
15 construction in the morning, to have 70 to 80
16 people standing in our front lawn. Our driveway
17 is totally and completely blocked. Our building,
18 a disarray; our pools and air conditioning units
19 shut down by the debris and it goes on and on and
20 on.

21 One thing I'd also like to say is that I
22 personally met with several of the purchasers of
23 Fontainebleau II and the two that I met had no
24 idea whatsoever that there was another building
25 being built directly in front of Fontainebleau II.

A88

5 1 They, from beginning to end, put up their deposit
2 approximately three years ago. It was a
3 non-refundable deposit 30 percent I believe
4 or 33 percent of the purchase price and not until
5 just recently did they find out there would be an
6 an 18-story structure built in front of their
7 building. And, last but not least, of record
8 there are 46 or 48 deeds of record, but I believe
9 that there are over three hundred purchasers, over
10 three hundred people who have bought in the
11 Fontainebleau II and who have a right and who have
12 had a right to know exactly what is going on in
13 there property, and it is this Board's and this
14 City's and their attorney's fiduciary obligation
15 to protect them.

16 May I pass these out?

17 MR. NEVILLE: Do you want to pass them to us
18 and have us pass them around? Is that what you
19 want?

20 MR. BROWN: Yes. Basically, they're all
21 single pictures. They show the debris. They show
22 the total blocking of our driveway on Collins
23 Avenue, which is a normal thing so that no one can
24 get in and out of our building or find our
25 building for that matter and when one looks at the

A89

5 1 property -- I don't even believe that the use of
2 the property, as it sits today, conforms with the
3 approval of the original site plan because all the
4 residents, I believe, are supposed to be coming in
5 and out of that entrance and it is nothing more
6 than a construction entrance.

7 MR. NEVILLE: All right. Thank you.

8 MS. BAUER: I'm Stefanie Bauer. I'm the
9 manager of the hotel, the actual Sovereign Hotel.
10 And I just want to support what Mr. Brown said.
11 He does live on the property.

12 There are quite a few of the new owners that
13 have come over to our hotel and were not notified
14 that a new hotel was going to be built in front of
15 them.

16 The effect that this has on the property
17 owners, both in Fontainebleau II as well as the
18 neighbors going South as well as the neighbors
19 going north is very profound. We have just as
20 much of an interest, a vested interest, in the
21 community as the owners of the Fontainebleau and
22 really would like you to consider our appeal to
23 this.

24 These pictures, we have a number of other
25 pictures, but it just clearly shows you what

A 90

5
1 happens when those jackhammers start at six
2 o'clock in the morning on the north side of our
3 building. You can imagine how many people check
4 out. This is a vacation area. How many people in
5 Fontainebleau II are going to be in their
6 condominiums when jackhammers start at six o'clock
7 in the morning.

8 Please consider this. It's very important.
9 We're very invested in this community. We're
10 looking at other investments in the community but
11 this is really affecting our ability to be a good
12 neighbor.

13 MR. NEVILLE: Thank you.

14 Would anybody else from the public like to
15 speak on this?

16 Carter, I promised you some time for
17 rebuttal.

18 MR. McDOWELL: While I'm thinking about it,
19 the photographs that you see, some of which are
20 from the time that we were demolishing the
21 building next to them, are now six months old.

22 As far as -- we have had a few minor
23 complaints from people about their own vehicles
24 and other things since August, but really nothing
25 since then.

A91

5 1 It is true we demolished the building next to
2 their building, and as any of you know in the
3 construction process, it's virtually impossible
4 not to have some impact on your neighbor at that
5 time.

6 During that period of time we were pwaying to
7 cleaning their pool and their decks. We have paid
8 to repair any damage that we actually have caused
9 on their property. We have a photographic record
10 of the condition of their property before we began
11 the demolition and after. I'm not going to take
12 the time to submit it to you, but, yes, we had
13 impact an impact on them when we were demolishing
14 that building. There's no way not to. That
15 building had a five foot setback.

16 The building that's before you for an
17 extension of time, and I remind you the only thing
18 before you is an extension of time for an approval
19 for us to get a building permit to build a project
20 that this Board approved unanimously 18 months
21 ago.

22 We are in the process, as I have said to
23 you of pulling that building permit. The plans
24 have been submitted.

25 I'd like to submit for the record -- and I

AA2

5
1 find it, shall we say, remarkable that our
2 neighbor is complaining to you about people who
3 are not in the room and who do know about this
4 building. Yes, they're saying that there are
5 owners in Fontainebleau II, which there are at
6 this point. They've recently begun to close those
7 units. Those property owners, in the documents
8 that they signed, there was clear explanation and
9 disclosure of Fontainebleau III. I can't promise
10 you that every one of them read those documents
11 and understood them, but there was an absolutely
12 clear disclosure that Fontainebleau III was going
13 to be built.

14 I ask you to think it through. Would we as
15 a property owner put ourselves in a position where
16 the people we sold to are going to bring some sort
17 of legal action against us for not disclosing the
18 fact that we were going to build another building
19 on the property? I think just pure logic would
20 tell you that we wouldn't be so foolish as to do
21 that.

22 I will show you, for the record, and it's
23 already in the record, we're going back to Kent's
24 questions about disclosure, et cetera. On the
25 the notice issue -- on the disclosure issue first.

A93

Fontainebleau III is the property in front of
Fontainebleau II, not the footprint of
Fontainebleau II. The Fontainebleau II
condominium is based on air rights. The deed that
he gave you that talks about air rights and a
partial interest having been sold to TL
Fontainebleau, Limited Partnership, if you read
the limited description
begins 76 feet in the air. There has been no
separation of ownership of the land itself. There
is a single parcel. It is owned by Hotelerama
Associates, Limited Partnership, as we sit here
today.

Kent has suggested to you that notice has not
been properly given. I'm going to hand out to
you --

And I have an extra copy for you, Kent, if
you'd like it.

-- excerpts from the City of Miami Beach Land
Development regulations and Florida Statutes. I
have folded a couple of paragraphs in here because
I think their important for you to understand the
process for notice both as in the local law of the
City of Miami Beach and the State statutes.

There is a practical real-world issue when

A94

1 you have to give notice to the neighbors. How do
2 you identify them? Kent would say to you that we
3 have to do a title search on every property and
4 make sure that we have found them. That is not
5 the law.

6 If you notice in bold under this Section
7 118164 of the Land Development regulations of
8 Miami Beach, in bold it says, "If the proposed
9 amendment involves ten acres," et cetera, et
10 cetera, "the City shall notify, by mail, each real
11 property owner whose land the City will
12 redesignate by enactment of the ordinance and
13 whose address is known by reference to the latest
14 ad valorem tax records." That is the legal
15 standard for notice, both in the City's Land
16 Development regulations and I've bolded two
17 sections from it.

18 I've also provided to you Chapter 1633181 of
19 the Florida statutes but, more importantly, that
20 then references, in the last portion of that
21 excerpt, Chapter 16604132 B, which is the notice
22 requirements that are applicable to Land
23 Development regulations within any city in the
24 State of Florida. I have, again, bolded a portion
25 of the State statutes: "The governing body shall

A95

1 direct the clerk of the governing body to notify
2 by mail each property owner owner whose land the
3 City will redesignate by enactment by reference to
4 the latest ad valorem tax records."

5 The courts and the law is very clear that the
6 way you provide notice is you go to ad valorem tax
7 records, as CU is listed in the tax records, and
8 you provide notice on that basis. We have
9 provided that list, as required, under both the
10 bylaws and the rules of the City of Miami Beach
11 and listing the property owners within 375 feet
12 and they have been provided notice.

13 I'm also going to hand out to you printouts
14 from the Dade County Property Appraiser's web site
15 which I printed out as recently as last night.
16 You'll notice the bottom of the page is dated
17 4-18-05. These are the tax records addressing the
18 properties that Kent has complained about in terms
19 of who's listed on the tax records for the
20 Fontainebleau property, itself, Fontainebleau II,
21 etc. You'll see that none of the property owners
22 that Kent has complained about, which he does not
23 represent, are listed in the tax rolls; therefore,
24 the notice that was provided is in accordance with
25 both state law and Miami Beach laws and rules and

A96

1 regulations and is proper. So we have met the
2 notice requirements.

3 In terms of the disclosure of interest, this
4 is Fontainebleau III, not Fontainebleau II that's
5 before you. There is no other party
6 other than Hotelerama that has an interest in
7 that piece of property and so we have provided the
8 proper disclosure of interest with regard to
9 that.

10 You've heard from neighbors that we caused
11 problems during construction. I'm not here to
12 tell you that we didn't have some impact on them.
13 We clearly did. When we did, we addressed those
14 issues. You see pictures that show some debris
15 adjacent to the property. That is true. There
16 was debris that fell during the actual demolition
17 process. We cleaned it up. To the extent it
18 caused any damage, we repaired it.

19 I suggest to you that it's not possible to
20 demolish a building with a five-foot setback that
21 was nine stories tall and not have some impact.
22 We clearly did. We have addressed those. All of
23 the things you've heard complaints about are now
24 months old, but it's also with respect to my
25 neighbors and to this Board really irrelevant to

A97

6 1 this consideration. The issue is whether there's
2 good cause for an extension of time for this
3 permit.

4 We have submitted -- it's not as if we have
5 not submitted our building permit plans to the
6 City for this project. We are held up by a third
7 party State agency that is impacted by natural
8 events for hurricanes in the last year. There is
9 absolutely good cause for the extension of time.
10 We asked only for six months, and the only reason
11 we picked six months is we really don't know. We
12 can't control that. I believe that there is a
13 significant chance we'll have a building permit by
14 May 7th. I promise we're doing everything in our
15 power to try to get that building permit by that
16 time, but we would ask you to grant the extension
17 of time. And if Mr. Robbins and his clients
18 decide they would like to see us in court, I guess
19 we'll see them there in court.

20 MR. NEVILLE: Thank you, Mr. McDowell. ...

21 Gary? Gary?

22 MR. HELD: I just want to clarify for the
23 record, Carter, when we did swear everybody in, I
24 noticed you raised your hand, which wouldn't have
25 been reflected unless we commented on it.

A98

1 MR. McDOWELL: I appreciate that. Mr.
2 Robbins is going to ask for rebuttal. In fact,
3 we're the applicant. That would be re-rebuttal.
4 Technically under your rules it doesn't exist.

5 I'll leave it up to you as to whether --

6 MR. NEVILLE: Is there something that you'd
7 like to add very briefly, Mr. Robbins?

8 MR. ROBBINS: Yes. It's a rebuttal as
9 allowed under the bylaws.

10 There's a reference by Mr. Carter to the code
11 of Miami Beach as to using tax records. That only
12 applies to actual zoning map changes. That
13 ordinance that was referenced only is as to
14 changes in the zoning code, not as to Design and
15 Review Board process. So that was not applicable
16 and it's, in fact, misleading.

17 Also, the quoting of the Florida Statutes
18 also applies to Zoning and Planning applications,
19 not to Design Review Board applications. We have
20 our own code. Our code is specific. All property
21 owners of record, and "of record" means you
22 provide a warranty deed. The warranty deed is of
23 record. And it's not like we're trying to put a
24 great burden on these people. They know who they
25 deeded this property to.

A99

7
1 Finally, let's go into the other issue of
2 disclosure of interest. His attempt to mislead
3 this Board as to Fontainebleau II and
4 Fontainebleau III and trying to distinguish the
5 two in one way one in one regard and then trying
6 to say it's the same thing with respect to -- in
7 another regard.

8 This is a unified parcel. The old
9 Fontainebleau, Fontainebleau II, Fontainebleau III
10 are all part of the unified parcel.

11 In order to obtain approval and application,
12 they had to go through the unity of title process,
13 and the fact there's unity of title and there's an
14 agreement referenced in the warranty deed to the
15 Fontainebleau entity from Hotelerama referencing
16 those common agreements.

17 So in an application process, they have to
18 disclose all the persons who have an interest that
19 are part of the application process. The
20 Fontainebleau entity known as TLTJ Fontainebleau,
21 the deeded entity, which is not just the air
22 rights but actually the entity that owns the
23 common interest of the condominium. And the
24 actual entity which grants interest in the
25 condominium units, that entity was not disclosed

A/100

7
1 in the disclosure form. Those persons who have
2 ultimate ownership were not disclosed in the
3 disclosure form and they were not disclosed either
4 in the original application nor in the current
5 application.

6 So there's a defective disclosure as to all
7 persons who are really making application for
8 extensions of time, because all these persons are
9 part of this entity this unified site, which is
10 part of the application process. So that those
11 individuals who have ultimate interest were not
12 disclosed and that entity was not disclosed before
13 nor at this time, as we speak right now, we do not
14 know who owns that interest at this time and who
15 are the ultimate owners and that's being hidden
16 and not put into the record.

17 Whatever the reason is for that, there's a
18 need to determine whether there's conflicts of
19 interest an this Board has a duty to determine
20 that to make certain that nobody has a
21 relationship whatsoever to any of the persons who
22 have an ultimate interest. They have failed to
23 disclose that. They've had every opportunity
24 to disclose it. We made this objection three
25 weeks ago before the Board of Adjustments. They

A 101

7 1 failed to correct the record then.

2 What are they trying to hide? That's all I
3 have to say today.

4 MR. NEVILLE: Thank you.

5 Anybody else from the public like to speak?

6 All right. We're going to close it up to the
7 floor and bring it up to the Board.

8 Let me just ask Tom or Gary. In dealing with
9 these construction site issues, what is the
10 neighbors' avenue of -- I hesitate to say proper
11 avenue of complaining and solution of --

12 MR. MOONEY: It's an administrative issue
13 that needs to be addressed by the building
14 official. It's not within the purview of this
15 Board. This isn't the only time that this type of
16 situation has arisen. There's countless other
17 sites, construction sites in the city, where the
18 contractor is infringing on the rights of the
19 neighbors, and it's something that the neighbors
20 need to address directly with the building ..
21 official so that the building official can enforce
22 the laws and requirements of both of the Florida
23 Building Code and --

24 MR. NEVILLE: So if there's any sort of rules
25 that are being violated, they need to go to the

A102

1 building department to have those resolved, not to
2 this Board.

3 MR. MOONEY: Yes.

4 MR. NEVILLE: Gary, can I ask a few
5 questions?

6 MR. HELD: Sure.

7 MR. NEVILLE: Is it, as Mr. Robbins stated,
8 our duty to make sure everyone is notified of
9 these meetings? This Board's duty?

10 MR. HELD: No. I believe that would be
11 Staff's duty and Staff has set up the procedures.
12 They have interpreted this ordinance to require an
13 applicant to submit a certified list of property
14 owners from the property appraiser's tax records
15 and, in each application, before an application is
16 put before this Board they determine that the
17 application is complete and properly noticed and I
18 would have to confirm that that was done in this
19 case.

20 MR. NEVILLE: Is it also our duty to make
21 sure that there is proper disclosure of ownership
22 for this Board to -- is that our duty?

23 MR. HELD: Again, that's a department
24 responsibility.

25 MR. MOONEY: And that was done in both

A103

1 instances. I think that counsel for the applicant
2 would tell you whether or not there were any
3 changes in the disclosure and he can do that on
4 the record.

5 MR. NEVILLE: But it is our duty to discuss
6 architectural design?

7 MR. MOONEY: Yes.

8 MR. NEVILLE: This is Design Review Board.

9 MR. MOONEY: And in this particular instance,
10 it would be your duty to discuss whether or not
11 there's good cause for granting an extension.

12 MR. HELD: Just to clarify, ultimately this
13 Board has the authority to determine whether
14 applications are properly before it its
15 discretion; whether to accept the department's
16 representations to you that an application is
17 complete and properly noticed. There's an
18 inherent authority of Boards to determine their
19 jurisdiction and, in essence, that means over
20 a particular matter.

21 So you take the facts that are presented to
22 you and essentially decide whether to go forward
23 or not. The typical practice is that this
24 department will not put an application before you
25 unless it deems it complete and properly noticed.

A104

3 1 MR. NEVILLE: The reason I ask is because we
2 have one person who is telling us that people
3 weren't notified, and they were supposed to be.
4 We have another guy telling us that everyone was
5 notified. What are we supposed to believe?

6 You know, I mean, I'm not sure if we need to
7 believe either one, because I don't think it's
8 part of our responsibility to find out or verify
9 or our duty to make sure of or anything like that.

10 MR. HELD: Right. Mr. Robbins is raising
11 objections that are contrary to the accepted
12 practice of the department, long standing
13 practice, as established in both the code and
14 Florida statutes, and he's entitled to make those
15 objections, and if the court agrees with him, the
16 application will come back and those things will
17 be corrected.

18 But at this point, the practice of the
19 department, based upon its understanding of the
20 applicable laws, is to the contrary and the ...
21 department is advising you and I'm advising you
22 that you can go forward this application.

23 MR. McDOWELL: Mr. Chairman, if I might for
24 one second. Just an observation. If Mr. Robbins'
25 requirement for notice is as he has stated it,

A105

1 every action this Board has ever taken is invalid,
2 every one.

3 MR. NEVILLE: Thanks for shedding the light
4 on that one.

5 MR. McDOWELL: I mean, it is an illogical
6 position. It is completely contrary to the City's
7 practice on every application before every Board,
8 and Mr. Robbins has even filed applications. It
9 would invalidate literally every -- if that were
10 the requirement, nobody has ever met those
11 requirements. It's illogical.

12 MR. NEVILLE: Thanks. I'm inclined to vote
13 for this because -- for consistency's purposes and
14 my time on the Board, if someone has shown good
15 faith in trying to get their building permit, and
16 they've been delayed for one reason or another in
17 the maze that is the regulatory permitting
18 process, then I sympathize with that.

19 I think that, also, the complaints of the
20 neighbors or anyone else needed to be here when
21 the application was originally put in and we were
22 discussing the design, which is what we're
23 supposed to be doing here.

24 So for those two reasons, unless there's some
25 evidence that the applicant is dragging his heels,

A106

1 doesn't want to really get his permit, is looking
2 to sell the property after getting our approval or
3 whatever, then, you know, we look at it a little
4 bit differently, but I think in this case, they've
5 shown that they've been trying to get their permit
6 and they've been held up.

7 Does anybody else have anything to say on
8 this?

9 Peter?

10 MR. CHEVALIER: Motion. Motion to approve.

11 MR. NEVILLE: Anybody want to -- did you
12 already motion? You motioned earlier, though.

13 MR. CHEVALIER: Mike's quick with it

14 MR. NEVILLE: He motioned before the --

15 MR. CHEVALIER: Then I'll second it.

16 MR. NEVILLE: All right. I guess Mike has
17 made the motion to approve. Peter second

18 All in favor say aye. All opposed.

19 Congratulations.

20 (Thereupon, the meeting was concluded.)

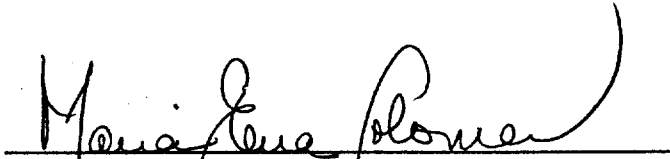
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CERTIFICATION

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

I, MARIA ELENA COLOMER, Shorthand Reporter and Notary Public in and for the State of Florida at Large, do hereby certify that the foregoing proceedings were taken before me at the date and place as stated in the caption hereto on Page 1; that the foregoing computer-aided transcription is a true record of my stenographic notes taken at said proceedings.

WITNESS my hand this 2nd day of May 2005.



MARIA ELENA COLOMER,
Court Reporter and Notary Public
in and for the State of Florida at Large
Commission # DD 061676
Expires: 10-4-2005



Maria Elena Colomer
Commission # DD 061676
Expires Oct. 4, 2005
Bonded Thru
Atlantic Bonding Co., Inc.

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BEFORE THE CITY COMMISSION OF MIAMI BEACH

Design Review Board File No. 17369

Commission Appeal No.

MIAMI BEACH HOTEL INVESTORS, LLC,

Petitioner,

v.

DESIGN REVIEW BOARD,

CITY OF MIAMI BEACH

and

HOTELERAMA ASSOCIATES, LTD.

Respondents.

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**APPENDIX TO REQUEST TO REVIEW A DECISION OF DESIGN REVIEW
BOARD PURSUANT TO SECTION 118-262 OF THE MIAMI BEACH CODE**

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APPENDIX TO REQUEST TO REVIEW A DECISION OF DESIGN REVIEW BOARD PURSUANT TO SECTION 118-262 OF THE MIAMI BEACH CODE

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DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: April 19, 2005

IN RE: The Application for a six (6) month Extension of Time to obtain a Full Building Permit for a previously issued Design Review Approval for the construction of a new 18-story hotel tower.

FILE NO: 17369

PROPERTY: 4441 Collins Avenue – Fontainebleau III

ORDER

The applicant, Hotelerama Associates, Ltd., filed a request with the City of Miami Beach Planning Department for an Extension of Time to obtain a Building Permit for a previously issued Design Review Approval.

The City of Miami Beach's Design Review Board makes the following FINDING OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the record for this matter:

The applicant submitted information establishing, among other things, that there were delays encountered in the permitting process. The foregoing constitutes good cause for granting a six (6) month extension of time to the requirement that a Full Building Permit be obtained within eighteen (18) months of the original Design Review Approval.

IT IS HEREBY ORDERED, based upon the foregoing finding of fact and the staff report and analysis, which is adopted herein, including the recommendation, that a six (6) month extension of time to obtain a full building permit (which six [6] month period shall run from the expiration date of the original approval, which is May 18, 2005) is granted for the above-referenced project conditioned upon the following, to which the applicant has agreed:

1. A full building permit, not a foundation or shell permit, for the project shall be obtained by November 18, 2005.
2. Construction shall commence and continue in accordance with the applicable Building Code.
3. The Final Order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.

No building permit may be issued unless and until all conditions of approval as set forth in this Order and the Order for the November 18, 2003 approval have been met. The issuance of Design Review Approval does not relieve the applicant from obtaining all other required Municipal, County and/or

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State reviews and permits, including zoning approval. If adequate handicapped access is not provided, this approval does not mean that such handicapped access is not required or that the Board supports an applicant's effort to seek waivers relating to handicapped accessibility requirements.

When requesting a building permit, three (3) sets of the plans approved by the Board, modified in accordance with the conditions set forth in this Order and the Final Order for the November 18, 2003 meeting, shall be submitted to the Planning Department. If all of the above-specified conditions are satisfactorily addressed, the plans will be reviewed for building permit approval. Two (2) sets will be returned to you for submission for a building permit and one (1) set will be retained for the Design Review Board's file. If the Full Building Permit is not issued by November 18, 2005, and construction does not commence and continue in accordance with the applicable Building Code, the approval will expire and become null and void.

Dated this 5 day of May, 2005.

DESIGN REVIEW BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY: Thomas R. Mooney
THOMAS R. MOONEY, AICP
DESIGN AND PRESERVATION MANAGER
FOR THE CHAIR

Approved As To Form:

Legal Department: giles (5-4-05)

Filed with the Clerk of the Design Review Board on 5/6/05 (6/1)

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ARTICLE VI. DESIGN REVIEW PROCEDURES

Sec. 118-251. Design review criteria.

(a) Design review encompasses the examination of architectural drawings for consistency with the criteria stated below, with regard to the aesthetics, appearances, safety, and function of any new or existing structure and physical attributes of the project in relation to the site, adjacent structures and surrounding community. The board and the planning department shall review plans based upon the below stated criteria, criteria listed in neighborhood plans, if applicable, and design guidelines adopted and amended periodically by the design review board and/or historic preservation board. Recommendations of the planning department may include, but not be limited to, comments from the building department and the public works department. If the board determines that an application is not consistent with the criteria, it shall set forth in writing the reasons substantiating its finding. The criteria referenced above are as follows:

(1) The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.

(2) The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.

(3) The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.

(4) The color, design, selection of landscape materials and architectural elements of exterior building surfaces and primary public interior areas for developments requiring a building permit in areas of the city identified in section 118-252.

(5) The proposed site plan, and the location, appearance and design of new and existing buildings and structures are in conformity with the standards of this article and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the design review board and historic preservation board and all pertinent master plans.

(6) The proposed structure, and/or additions or modifications to an existing structure, indicates a sensitivity to and is compatible with the environment and adjacent structures, and enhances the appearance of the surrounding properties.

(7) The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on contiguous and adjacent buildings and lands, pedestrian sight lines and view corridors.

(8) Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access

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to the site and all buildings is provided for and that all parking spaces are usable and are safety and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the site.

(9) Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.

(10) Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall site plan design.

(11) Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from structures are adequately shielded from public view, adjacent properties and pedestrian areas.

(12) The proposed structure has an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).

(13) The building has, where feasible, space in that part of the ground floor fronting a street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a street, or streets shall have residential or commercial spaces, shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of the parking structure from the surrounding area and is integrated with the overall appearance of the project.

(14) The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.

(15) An addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).

(16) All portions of a project fronting a street or sidewalk shall incorporate an architecturally appropriate amount of transparency at the first level in order to achieve pedestrian compatibility and adequate visual interest.

(17) The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.

(Ord. No. 89-2665, § 18-2(A), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 98-3107, § 6, 1-21-98; Ord. No. 2000-3268, § 2, 9-27-00)

Sec. 118-252. Applicability and exemptions.

(a) *Applicability.*

(1) All building permits for new construction, public interior areas, interior areas that face a street or sidewalk, demolitions and wrecking, alterations, or additions to existing buildings, including fences, parking lots, walls and signs, whether new or change of copy, and exterior surface finishes and materials, shall be subject to review under the design review procedures except as

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provided in subsection (b) of this section. No building permit shall be issued without the written approval by the design review board or staff as provided for in these regulations.

(2) All public improvements upon public rights-of-way and easements. For purposes hereof, public improvements shall include, but not be limited to, structures, streetscape projects, street improvements or redesign, modifications to street lighting or signage, landscaping projects, medians, and above ground utilities; however, public improvements shall exclude routine maintenance and utility repair work.

(3) The review and approval of all new single family home construction, in accordance with subsection 142-105(d)(7).

(b) *Exemptions.* Exemptions to these regulations include all of the following provided no new construction or additions to existing buildings are required:

(1) All permits for plumbing, heating, air conditioning, elevators, fire alarms and extinguishing equipment, and all other mechanical and electrical equipment when such work is entirely within the interior of the building, excluding public interior areas and interior areas that face a street or sidewalk; however, the planning director may approve such building permit applications for minor work on the exterior of buildings.

(2) Any permit necessary for the compliance with a lawful order of the building official, fire marshal or public works director related to the immediate public health or safety.

(3) All single-family dwellings are exempt from the design review regulations, with the exception of exterior surface color samples and finishes, and the review and approval of all new single family home construction in accordance with subsection 142-105(d)(7). However, all building permits for new construction, alterations or additions to existing structures shall be subject to compliance with section 142-105, and all demolition permits must be signed by the planning director, or designee.

(4) All properties located within designated historic districts and designated historic sites.

(Ord. No. 89-2637, eff. 4-15-89; Ord. No. 89-2665, § 18-2(B), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 91-2767, eff. 11-2-91; Ord. No. 2000-3268, § 2, 9-27-00; Ord. No. 2002-3375, § 2, 7-10-02)

Sec. 118-253. Application for design review.

(a) The applicant shall obtain a design review application from the planning department, which shall be responsible for the overall coordination and administration of the design review process. When the application is complete, the planning department shall place the application on the agenda and prepare a recommendation to the design review board. The planning department shall determine the date on which the application will be heard by the board; however, the board shall consider the application and planning department recommendation at the next available meeting date after the submission of a completed application to the planning department.

(b) In the event the applicant seeks a preliminary evaluation of a project from the board for information and guidance purposes only, an application for preliminary evaluation shall be required. The planning director, or designee, shall determine the

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supplemental documents and exhibits necessary and appropriate to complete an application for a preliminary evaluation; the required supplemental documents and exhibits shall serve to describe and illustrate the project proposed in the application in a manner sufficient to enable the board to provide general comments, feedback, information and guidance with respect to the application. Preliminary evaluations by the board shall be for informational purposes only; a preliminary evaluation by the board shall not constitute a binding approval, nor shall any comments, feedback, information or guidance provided by the board be binding upon the board during subsequent review of the preliminary application or a related final application. The board may provide a general comment, feedback, information and guidance during the initial hearing on the application for preliminary evaluations, and may continue discussion on a preliminary evaluation to subsequent meetings in order for the applicant to better address any specific concerns raised by the board or staff, or may elect to terminate the preliminary evaluation process after providing general comments. All preliminary evaluations shall be subject to the noticing requirements provided in section 118-254. Preliminary evaluations shall not constitute a design review approval, and therefore an applicant acquires no equitable estoppel rights or protections of any kind, type or nature based upon the filing or review of the preliminary evaluation application. The board will not issue an order either approving or denying a project or take any formal action on preliminary evaluation application. Preliminary evaluations shall not entitle applicants to any of the benefits accorded to applicants who have received design review approval, inclusive of appeals or rehearings. Except as used in this section, the use of the phrase "application" throughout this article refers to a completed application for approval and not to a preliminary evaluation application. An applicant may withdraw an application for a preliminary evaluation at any time, provided however, that no fee shall be refunded in the event the withdrawal is made after the giving of notice.

(c) The design review board may, at its sole discretion, on an individual, case-by-case basis, allow a two-step process for design review approval. The two-step process shall consist of, first: a binding, preliminary concept approval on the issues of urbanism, massing and siting; and, second: approval of the project's design details (style, fenestration, materials, etc.). This two-step process shall be subject to the following:

(1) The design review board shall have the sole discretion, on an individual, case-by-case basis, to decide which development projects may pursue this two-step approval process for design review approval.

(2) In the event the design review board should authorize the two-step approval process, the applicant shall have a maximum of 120 days from the date of preliminary concept approval on the issues of urbanism, massing and siting, to return to the board with fully developed design drawings and substantial details (style, fenestration, materials, etc.) for final approval, or the entire application shall become null and void. The board, at its sole discretion, may extend the time period to return to the board for final approval, provided that the total time through final approval does not exceed one year from the date of the original submission of the application. The applicant shall have six months from the date of preliminary concept approval on the issues of urbanism, massing and siting, to obtain final approval for the remainder of the project or the entire application shall become null and void. The board, at its sole discretion, may extend the time period to obtain final approval for the remainder of the project up to a maximum of one year from the date of the original submission of the application.

(Ord. No. 89-2665, § 18-2(C), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 97-3067, § 1, 1-8-97; Ord. No. 2000-3268, § 2, 9-27-00)

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Sec. 118-254. Decision of design review board.

(a) The design review board shall consider each application at a public hearing, at which the applicant and interested persons shall have an opportunity to express their opinions, present evidence and rebut all evidence presented. The planning department, shall provide the applicant with advance notice of the hearing date and time, including a copy of the agenda and the recommendation of the planning department.

(b) Not less than 15 days prior to the public hearing date, a description of the request, and the time and place of such hearing shall be advertised in a paper of general paid circulation in the municipality; notice shall also be given by mail to the owners of record of land lying within 375 feet of property. The mail notification requirement shall be the responsibility of the applicant. Additionally, courtesy notice shall also be given to any state nonprofit community organization which has requested of the director in writing to be notified of board hearings. The board shall approve, approve with conditions or deny applications.

(c) The board may require such changes in the plans and specifications, and conditions, as in its judgment may be requisite and appropriate to the maintenance of a high standard of architecture, as established by the standards contained in these land development regulations and as specified in the city's comprehensive plan and other specific plans adopted by the city of pertaining to the areas identified in subsection 118-252(a).

(d) Upon approval of an application by the board, the planning director or his authorized representative shall stamp and sign three sets of plans. Two sets of plans shall be returned to the applicant who may then submit an application for a building permit. The remaining approved plans shall be part of the board's official record and shall be maintained on file with the planning department. The board's decision shall be set forth in a written order, specifying the reasons for such decision.

(e) The planning department, shall promptly mail a copy of the board's order to the applicant.

(Ord. No. 89-2665, § 18-2(D), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 94-2950, eff. 10-29-94; Ord. No. 94-2959, eff. 12-17-94; Ord. No. 00-3268, § 2, 9-27-00)

Cross references: Review requests and meetings of the historic preservation board and design review board joint projects, § 118-531.

Sec. 118-255. Fees.

(a) An applicant shall pay, upon the submission of an application to the planning, design and historic preservation division, a fee based upon the following schedule:

(1) An application for a preliminary evaluation of a project before the design review board shall require a fee as provided in appendix A, which shall not be refundable, nor shall it be applied to reduce any other fees due and payable pursuant to this section.

(2) An application requiring a hearing before the board for design review approval shall require a base fee plus a fee per square feet of floor area as provided in appendix A.

(3) An application requiring staff review for minor alterations and minor additions including storefront replacement and storefront reconfiguration shall

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require a fee as provided in appendix A.

(4) An application pertaining only to signs, awnings and window replacements shall require a fee as provided in appendix A.

(5) An application pertaining only to paint shall require a fee as provided in appendix A.

(6) If a deferment or clarification hearing is requested by the applicant, an additional fee as provided in appendix A shall be assessed.

(7) If a deferment or clarification of conditions is requested by the board, there will be no additional fee.

(8) If the applicant removes his file from the agenda after it has been accepted by the planning, design and historic preservation division, the city shall retain 50 percent of the application fee.

(9) An application pertaining to extensions of time shall require a fee as provided in appendix A.

(10) Any after-the-fact application shall incur triple fees.

a. Notwithstanding the above provision, the design review board or the joint design review board/historic preservation board (when applicable) may adjust the after-the-fact fee based on substantial competent evidence that there are extenuating circumstances that warrant such an adjustment. The request for a fee adjustment shall be in writing. The adjusted after-the-fact fee shall not be less than the regular application fee.

b. The request shall be:

1. Part of the design review board or the joint design review/historic preservation board application (when applicable); or

2. A separate application requesting an adjustment to the after-the-fact fee for a staff level review.

c. If a request for an adjustment to the after-the-fact fee for a staff level review is submitted, there will be an additional fee as provided in appendix A to place the item on the board's agenda.

(11) Minor revisions to previously approved plans shall require a fee as provided in appendix A for reviews conducted by staff and one-half of the original fee for plans which were approved by the board.

(12) Major revisions to plans previously approved by the board shall require a base fee as provided in appendix A plus one-half of the original fee.

(13) Appeal of a staff decision to the board shall require a fee as provided in appendix A and an appeal of a board decision to the city commission shall require a fee as provided in appendix A. The fee shall be refunded if the applicant prevails in the appeal.

(14) An application pertaining to the rehearing of a project shall require a fee of one-half of the original fee.

(b) The fee schedule in subsection (a) of this section is provided to defray the costs associated with the administration of this section.

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(Ord. No. 89-2665, § 18-2(E), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 92-2786, eff. 7-19-92; Ord. No. 94-2959, eff. 12-17-94; Ord. No. 95-2993, eff. 5-27-95; Ord. No. 97-3067, § 1, 1-8-97; Ord. No. 98-3155, §§ 1, 3, 11-18-98)

Sec. 118-256. Clarification hearing.

Should a question arise as to compliance with the conditions as outlined by the design review board, a clarification hearing before the design review board may be called at the request of the planning department, or by the applicant.

(Ord. No. 89-2665, § 18-2(F), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 97-3067, § 1, 1-8-97; Ord. No. 2000-3268, § 2, 9-27-00)

Sec. 118-257. Deferrals, continuances, and withdrawals.

(a) An applicant may defer an application before the public hearing only one time. The request to defer shall be in writing. When an application is deferred, it shall be re-noticed at the applicant's expense as provided in section 118-254. The applicant shall also pay a deferral fee as set forth in this article. In the event that the application is not presented to the design review board for approval at the meeting date for which the application was deferred, the application shall be deemed null and void. If the application is deferred by the board, the notice requirements shall be the same as for a new application as provided in section 118-254, and shall be at the city's expense.

(b) The board may continue an application to a date certain at either the request of the applicant or at its own discretion. In the event the application is so continued, not less than 15 days prior to the new public hearing date, a description of the request, and the time and place of such hearing shall be advertised in a newspaper of general circulation within the municipality at the expense of the city.

(c) In the event the application is continued due to the excessive length of an agenda or in order for the applicant to address specific concerns expressed by the board and/or staff, the applicant shall present for approval to the board a revised application inclusive of all required exhibits which attempt to address the concerns of the board and/or staff, for the date certain set by the board, which shall be no more than 120 days after the date on which the board continues the matter.

(d) In the event that the applicant fails to present for approval to the board, a revised application as described above within 120 days of the date the application was continued, the application shall be deemed null and void.

(e) Deferrals or continuances for a specific application shall not exceed one year cumulatively for all such continuances or deferrals made by the board, or the application shall be deemed null and void.

(f) An application may be withdrawn by the applicant if such request is in writing and filed with the planning department prior to the public hearing, or requested during the public hearing, provided however, that no application may be withdrawn after final action has been taken. Upon a withdrawal or final denial of an application for design review approval from the design review board the same application cannot be filed within six months of the date of the withdrawal or denial unless, however, the decision of the board taking any such action is made without prejudice to refile.

(g) In the event there is a lack of a quorum, all pending or remaining matters shall be continued to the next available meeting of the board.

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(Ord. No. 89-2665, § 18-2(G), eff. 10-1-89; Ord. No. 95-3003, eff. 7-22-95; Ord. No. 2000-3268, § 2, 9-27-00)

Sec. 118-258. Building permit application.

(a) The applicant or his authorized agent shall make application for a building permit. The application shall include, at a minimum, the two sets of plans which were approved by the design review board and stamped and signed by the planning director or his authorized representative.

(b) No building permit, certificate of occupancy, certificate of completion, or occupational license shall be issued unless all of the plans, including amendments, notes, revisions, or modifications, have been approved by the planning director. Minor modifications to plans that have been approved by the board shall be permitted when approved by the planning director.

(c) No building permit, full building permit or phased development permit shall be issued for any plan subject to design review except in conformity with the approved plans. The applicant shall have up to 18 months, or such lesser time as may be specified by the board, from the date of the board meeting at which design review approval was granted to obtain a full building permit or a phased development permit. The foregoing 18-month time period includes the 20-day time period during which an appeal of the decision of the design review board may be filed. If the applicant fails to obtain a full building permit or a phased development permit within 18 months, or such lesser time as may be specified by the board, of the board meeting date at which design review approval was granted, and/or construction does not commence and proceed in accordance with said permit and the requirements of the applicable Florida Building Code, all staff and board approvals shall be deemed null and void. Extensions for good cause, not to exceed a total of one year for all extensions, may be granted by the board, at its sole discretion, provided the applicant submits a request in writing to the planning director in advance of the expiration of the original approval, showing good cause for such an extension. In the event a proposed code amendment renders a project with design review approval non-conforming, as more specifically set forth in sections 118-168 and 118-169 of this Code, then such a project shall not be eligible to receive an extension of time granted by the design review board for any reason. Notwithstanding the foregoing, in the event the original decision of the design review board is timely appealed, or there is an appeal of an approval from the board of adjustment and/or the planning board that is a requirement of the original decision of the design review board, and such appeal is filed within 20 days of the decision of the board of adjustment and/or the planning board, the applicant shall have 18 months, or such lesser time as may be specified by the design review board, from the date of final resolution of all administrative and/or court proceedings to obtain a full building permit or phased development permit. This tolling provision shall only be applicable to the original approval of the board and shall not apply to any subsequent requests for revisions or requests for extensions of time.

(d) An applicant may submit an application for a building permit simultaneously with a design plan review in order to expedite processing, however, no building permit shall be issued until the final design plan has been stamped and signed by the planning director or designee in accordance with these land development regulations.

(e) No construction may commence in the event a design review approval expires.

(Ord. No. 89-2665, § 18-2(H), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 95-3003, eff. 7-22-95; Ord. No. 2000-3268, § 2, 9-27-00; Ord. No. 2003-3416, § 2, 6-11-03)

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Sec. 118-259. Phased development permit.

A phased development permit shall apply to multiple building/structure development only and shall include all plans for each phase of the project as submitted, required and approved by the design review board. The applicant shall request the board approve a phased development at the public hearing and the board shall specify a reasonable time limit within which the phases shall begin or be completed or both. The board shall require a progress report from the applicant at the completion of each phase. A phased development permit shall not be a demolition, electrical, foundation, mechanical or plumbing permit or any other partial permit.

(Ord. No. 89-2665, § 3-2(159), eff. 10-1-89; Ord. No. 95-3003, eff. 7-22-95)

Sec. 118-260. Special review procedure.

(a) The planning director or designated representative, shall have the authority to approve, approve with conditions or deny an application on behalf of the board, for the following:

- (1) Ground level additions to existing structures, not to exceed two stories in height, which are not substantially visible from the public right-of-way, any waterfront or public park. For those lots which are greater than 10,000 square feet, the floor area of the proposed addition may not exceed ten percent of the floor area of the existing structure or primary lot, whichever is less, with a maximum total floor area not to exceed 5,000 square feet.
- (2) Replacement of windows, doors, storefront frames and windows, or the approval of awnings, canopies, exterior surface colors, storm shutters and signs.
- (3) Facade and building alterations, renovations and restorations which are minor in nature.
- (4) Minor demolition and alterations to address accessibility, life safety, mechanical and other applicable code requirements.
- (5) Minor demolition and alterations to rear and secondary facades to accommodate utilities, refuse disposal and storage.
- (6) Minor work associated with the public interiors of buildings and those interior portions of commercial structures which front a street or sidewalk.
- (7) Minor work involving public improvements upon public rights-of-way and easements.
- (8) Minor work which is associated with rehabilitations and additions to existing buildings, or the construction, repair, or rehabilitation of new or existing walls, at-grade parking lots, fences.

The director's decision shall be based upon the criteria listed in this article. The applicant may appeal a decision of the planning director to the design review board, pursuant to all application and notice requirements. The applicant shall be responsible for providing and effectuating all noticing requirements, according to planning department procedures, as well as the duplication of all pertinent plans and exhibits for distribution to the board.

(Ord. No. 89-2665, § 18-2(l), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 99-3167, § 2, 1-20-99; Ord. No. 2000-3268, § 2, 9-27-00)

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Sec. 118-261. Rehearings.

The design review board may hear a petition for rehearing by any person identified in section 118-262. The board may rehear a case, take additional testimony and either reaffirm their previous decision or issue a new decision reversing or modifying their previous decision. The petition for rehearing must demonstrate to the board that (i) there is newly discovered evidence which will probably change the result if a rehearing is granted, or (ii) the board has overlooked or failed to consider something which renders the decision issued erroneous. A petition for rehearing must be filed on or before the fifteenth day after the date of rendition of the board's order. For purposes of this article, the "date of rendition" shall be the date upon which a signed, written order is filed with the board's clerk, and an order shall be deemed "filed" when a fully executed order is returned to, and is in the possession of, the clerk. An order will issue on any petition for rehearing. Notice of the rehearing shall be according to section 118-254 herein and shall be the responsibility of the person requesting the rehearing.

(Ord. No. 89-2665, § 18-2(J), eff. 10-1-89; Ord. No. 94-2950, eff. 10-29-94; Ord. No. 98-3133, § 1, 7-15-98; Ord. No. 2000-3268, § 2, 9-27-00)

Sec. 118-262. Review of design review decisions.

(a) The applicant, or the city manager on behalf of the city administration, or an affected person, Miami Design Preservation League or Dade Heritage Trust may seek review of any order of the design review board by the city commission, except that orders granting or denying a request for rehearing shall not be reviewed by the commission. For purposes of this section, "affected person" shall mean either (i) a person owning property within 375 feet of the applicant's project reviewed by the board, or (ii) a person that appeared before the design review board (directly or represented by counsel), and whose appearance is confirmed in the record of the design review board's public hearing(s) for such project. The review shall be based on the record of the hearing before the design review board, shall not be a de novo hearing, and no new, additional testimony shall be taken. The request shall be in writing, include all applicable fees, shall be by or on behalf of a named appellant(s), shall state the factual bases and legal argument in support of the appeal, and shall be submitted to the city clerk on or before the 20th day after the date of rendition of the board's order. However, in the event that a petition for rehearing is filed pursuant to section 118-261, the time for filing a request shall be on or before the 20th day after the date of rendition of the board's order on the petition. Upon receipt of the request, the city clerk shall place the request for review on the city commission agenda. The city commission shall set a date and time for a hearing. Notice of the review shall be according to section 118-254, except that there shall be no requirement for mailed notification regarding the subject review. A full verbatim transcript of all proceedings which are the subject of the appeal shall be provided by the party filing the petition, along with a written statement identifying those specific portions of the transcript upon which the party filing it will rely for purposes of the appeal. The verbatim transcript and written statement, or if represented by legal counsel, appropriate legal briefs, shall be filed no later than two weeks prior to the first scheduled public hearing to consider the appeal.

(b) In order to reverse, or remand for amendment, modification or rehearing, any decision of the design review board, the city commission shall find that the design review board did not do one of the following:

- (1) Provide procedural due process;
- (2) Observe essential requirements of law; or

A 12

(3) Base its decision upon substantial competent evidence.

In order to reverse, or remand a five-sevenths vote of the city commission is required. The city commission's decision shall be set forth in a written order which shall be promptly mailed to all parties to the review.

(c) Appeal from a decision of the city commission shall be to a court of competent jurisdiction by petition for writ of certiorari in accordance with the Florida Rules of Appellate Procedure.

(Ord. No. 89-2665, § 18-2(K), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 94-2959, eff. 12-17-94; Ord. No. 98-3133, § 1, 7-15-98; Ord. No. 99-3171, § 1, 2-17-99; Ord. No. 2000-3268, § 2, 9-27-00; Ord. No. 2005-3473, § 1, 1-12-05)

Sec. 118-263. Stay during rehearings/reviews/appeals.

(a) The filing of a request for rehearing pursuant to section 118-261 or for review pursuant to section 118-262 and/or the initiation of court proceedings challenging or appealing a design review board decision pertaining to a project shall stay the issuance of any full building permit or phased development permit and the running of the required time period to obtain a full building permit or phased development permit for the project in question until the final resolution of all administrative and/or court proceedings.

(b) Notwithstanding subsection (a) of this section, nothing herein shall prevent the issuance of building permits or partial building permits necessary to prevent imminent peril to life, health or property, as determined by the building official.

(Ord. No. 89-2665, § 18-2(L), eff. 10-1-89; Ord. No. 95-3003, eff. 7-22-95; Ord. No. 2000-3268, § 2, 9-27-00)

Secs. 118-264--118-320. Reserved.

A13

ORDINANCE NO. 2005-3473

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 118, "ADMINISTRATION AND REVIEW PROCEDURES," ARTICLE VI, "DESIGN REVIEW PROCEDURES," BY AMENDING SECTION 118-262 TO AMEND THE REQUIREMENTS FOR FILING AN APPEAL TO THE CITY COMMISSION; PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach continually seeks to update and clearly define the requirements of the Land Development Regulations of the Code of the City of Miami Beach as they pertain to the City's Development Review Boards; and

WHEREAS, the City of Miami Beach has adopted regulations pertaining to the review of decisions of the Design Review Board by the City Commission; and,

WHEREAS, the City of Miami Beach desires to refine, clarify, expand and enhance the requirements for requesting a review of a decision of the Design Review Board; and,

WHEREAS, the amendments set forth below are necessary to accomplish all of the above objectives.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA.

SECTION 1. That Chapter 118, Entitled "Administration and Review Procedures", Article VI, Entitled "Design Review Procedures", of the Land Development Regulations of the Code of the City of Miami Beach, Florida is hereby amended as follows:

Sec. 118-262. Review of design review decisions.

- (a) The applicant, or the city manager on behalf of the city administration, or an affected person, Miami Design Preservation League or Dade Heritage Trust may seek review of any order of the design review board by the city commission, except that orders granting or denying a request for rehearing shall not be reviewed by the commission. For purposes of this section, "affected person" shall mean either (i) a person owning property within 375 feet of the applicant's project reviewed by the board, or (ii) a person that appeared before the design review board (directly or represented by counsel), and whose appearance is confirmed in the record of the design review board's public hearing(s) for such project. The review shall be based on the record of the hearing before the design review board, shall not be a de novo hearing, and no new, additional testimony shall be taken. The request shall be in writing, include all applicable fees, shall be by or on behalf of a named appellant(s), shall state the factual bases and legal argument in support of the

appeal, and shall be submitted to the city clerk on or before the twentieth day after the date of rendition of the board's order. However, in the event that a petition for rehearing is filed pursuant to section 118-261, the time for filing a request shall be on or before the twentieth day after the date of rendition of the board's order on the petition. Upon receipt of the request, the city clerk shall place the request for review on the city commission agenda. The city commission shall set a date and time for a hearing. Notice of the review shall be according to section 118-254, except that there shall be no requirement for mailed notification regarding the subject review. A full verbatim transcript of all proceedings which are the subject of the appeal shall be provided by the party filing the petition, along with a written statement identifying those specific portions of the transcript upon which the party filing it will rely for purposes of the appeal, the The verbatim transcript and written statement, or if represented by legal counsel, appropriate legal briefs, shall be filed no later than two weeks prior to the first scheduled public hearing to consider the appeal.

SECTION 2. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or other appropriate word.

SECTION 3. REPEALER.

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 4. SEVERABILITY.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED AND ADOPTED this 12th day of January, 2005.

ATTEST:

Randy Parker
CITY CLERK

[Signature]
MAYOR

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION
[Signature]
City Attorney

1-15-05
Date

DRB 17369

FILE NO: _____

DATE: 10/6/03

MCR No: 11662

AMOUNT: 2630.00

(For Staff Use Only)

1. The below listed applicant wishes to appear before the City Development Review Board for a scheduled public hearing: NOTE: This application form must be completed separately for each applicable Board hearing a matter.

- NOTE: Applications to the Board of Adjustment will not be heard until such time as the Design Review Board, Historic Preservation Board and/or the Planning Board have rendered decisions on the subject project.

- PUBLIC RECORDS NOTICE:** ALL DOCUMENTATION, APPLICATION FORMS, MAPS, DRAWINGS, PHOTOGRAPHS, LETTERS AND EXHIBITS WILL BECOME A PERMANENT PART OF THE PUBLIC RECORD MAINTAINED BY THE CITY OF MIAMI BEACH PLANNING DEPARTMENT AND MAY, UNDER THE FLORIDA SUNSHINE LAWS, BE DISCLOSED UPON PROPER REQUEST TO ANY PERSON OR ENTITY.

4. NAME OF APPLICANT: HOTELERAMA ASSOCIATES, LTD.
Note: If applicant is a corporation, partnership, limited partnership or trustee, a separate Disclosure of Interest Form (Pages 6/7) must be completed as part of this application.

4441 Collins Avenue, Miami Beach, FL 33140

ADDRESS OF APPLICANT CITY STATE ZIP

BUSINESS PHONE: (305) 674-4669 RESIDENCE PHONE: _____

FAX NO. (305) 532-6355 CELL PHONE NO. _____ E-Mail: _____

5. SAME

NAME OF PROPERTY OWNER (IF DIFFERENT FROM #4, OTHERWISE, WRITE "SAME")

If the owner of the property is not the applicant and will not be present at the hearing, the Owner/Power of Attorney Affidavit (Page 4) must be filled out and signed by the property owner. In addition, if the property owner is a corporation, partnership, limited partnership or trustee, a separate Disclosure of Interest Form (Pages 6 and 7) must be completed.

ADDRESS OF PROPERTY OWNER CITY STATE ZIP

BUSINESS PHONE: _____ RESIDENCE PHONE: _____

FAX NO. _____ CELL PHONE NO. _____ E-Mail: _____

6. NICHOLS BROSC SANDOVAL & ASSOCIATES

NAME OF ARCHITECT, LANDSCAPE ARCHITECT, ENGINEER, CONTRACTOR OR OTHER PERSON RESPONSIBLE FOR PROJECT DESIGN

161 Almeria Avenue, Coral Gables, FL 33134

ADDRESS (please circle one of the above) CITY STATE ZIP

BUSINESS PHONE: (305) 443-5206 RESIDENCE PHONE: _____

FAX NO. (305) 446-2872 CELL PHONE NO. _____ E-Mail: _____

7. NAME OF AUTHORIZED REPRESENTATIVE(S), ATTORNEY(S), AGENT(S) AND/OR CONTACT PERSON:

a. Carter N. McDowell, Bilzin Sumberg, et al., 200 S. Biscayne Blvd., Ste. 2500, Miami, FL 33131

NAME ADDRESS CITY STATE ZIP

BUS. PHONE: (305) 350-2355 RESIDENCE PHONE: _____

FAX NO. (305) 351-2239 CELL PHONE NO. _____ E-Mail: _____

b.

NAME ADDRESS CITY STATE ZIP

BUS. PHONE: _____ RESIDENCE PHONE: _____

FAX NO. _____ CELL PHONE NO. _____ E-Mail: _____

c.

NAME ADDRESS CITY STATE ZIP

BUS. PHONE: _____ RESIDENCE PHONE: _____

FAX NO. _____ CELL PHONE NO. _____ E-Mail: _____

8. DESCRIBE PROPOSAL IN FULL: DESIGN REVIEW BOARD APPROVAL OF NEW 200 FOOT - 18 STORY BUILDING AT THE SOUTHEAST CORNER OF THE FONTAINEBLEAU PROPERTY

9. TOTAL FLOOR AREA OF NEW BUILDING:
(excluding required parking, unenclosed stairways and balconies) 283,915 SQ. FT.

10. PRESENT ZONING CLASSIFICATION OF PROJECT SITE: RM-3

11. IF APPLICANT IS OWNER, INDICATE DATE ACQUIRED: _____
12. IF APPLICANT IS LESSEE, INDICATE DATE LEASED: _____ N/A
13. HAS A HEARING BEEN HELD BEFORE ANY OF THE BOARDS LISTED IN 1 ABOVE OR BEFORE THE CITY COMMISSION ON THIS PROPERTY WITHIN THE LAST FIVE YEARS?
 [X] YES [] NO [] DON'T KNOW. IF YES, PROVIDE DATE(S), REASON AND OUTCOME OF HEARING(S): CITY COMMISSION JANUARY 7, 1998 APPROVED; DESIGN REVIEW BOARD, FILE NO. 91-94 NOVEMBER 17, 1997 APPROVED; BOARD OF ADJUSTMENT, FILE NO. 2738 MAY 5, 2000 APPROVED
14. IS THERE ANY EXISTING BUILDING ON THE SITE? [X] YES [] NO. IF YES, RESPOND TO QUESTIONS 15 AND 16 BELOW.
15. DESCRIBE ANY BUILDINGS EXISTING ON THE SITE AT PRESENT: HOTEL/CONDOMINIUM
16. WILL ALL OR ANY PORTION OF THE BUILDING(S) INTERIOR AND/OR EXTERIOR BE DEMOLISHED? [X] YES [] NO PLEASE EXPLAIN: THE SORRENTO HOTEL WILL BE DEMOLISHED AND THE FACADE WILL BE RECONSTRUCTED AS PART OF THE NEW PROJECT.
17. IF THERE IS AN OPTION OF PURCHASE OR LEASE FOR THE SUBJECT PROPERTY AND IT IS PREDICATED ON THE APPROVAL OF THIS APPLICATION [] YES [X] NO. IF YES, PLEASE EXPLAIN AND SEE PAGE 5, _____
18. TOTAL FEE: (to be computed by staff) \$ _____

NOTE: APPLICATIONS FOR BOARD HEARINGS CANNOT BE ACCEPTED WITHOUT PAYMENT OF THE REQUIRED FEE. ALL CHECKS ARE TO BE MADE PAYABLE TO "CITY OF MIAMI BEACH".

WHEN THE APPLICABLE BOARD REACHES A DECISION REGARDING THIS REQUEST, A *FINAL ORDER* WILL BE ISSUED STATING THE BOARD'S DECISION AND ANY CONDITIONS IMPOSED THEREIN. FINAL ORDERS ISSUED BY THE BOARD OF ADJUSTMENT, THE HISTORIC PRESERVATION BOARD AND THE PLANNING BOARD MUST BE RECORDED IN THE **OFFICE OF THE RECORDER, MIAMI-DADE COUNTY** AND THE ORIGINAL RETURNED TO THE BOARD SECRETARY. FINAL ORDERS FROM OTHER BOARDS WILL BE MAILED TO THE APPLICANT, THE ARCHITECT, AND/OR THE CONTACT PERSON. IN NO CIRCUMSTANCES WILL A BUILDING PERMIT BE ISSUED BY THE CITY OF MIAMI BEACH WITHOUT A COPY OF THE PERTINENT *FINAL ORDER* BEING TENDERED ALONG WITH THE CONSTRUCTION PLANS.

In accordance with the Americans with Disabilities Act of 1990, persons needing special accommodation to participate in this proceeding should contact the Board's Administrator no later than four days prior to the proceeding at 305-673-7550 (voice). If hearing impaired, for sign language interpreters, five days or information on access for persons with disabilities call 305-673-7219 (TDD).

PLEASE COMPLETE ONE OR MORE OF THE FOLLOWING THREE AFFIDAVITS, AS APPLICABLE.
NOTE: THE PROPERTY OWNER MUST FILL OUT AND SIGN THE "OWNER/POWER OF ATTORNEY" PORTION IF THEY WILL NOT BE PRESENT AT THE HEARING.

TENANT or OWNER AFFIDAVIT (circle one)

I, _____, being first duly sworn, depose and say that I am the owner of the property described and which is the subject matter of the proposed hearing; that all the answers to the questions in this application and all sketch data and other supplementary matter attached to and made a part of the application are honest and true to the best of my knowledge and belief. I understand that this application must be completed and accurate before a hearing can be advertised.

SIGNATURE

I, _____, hereby authorize the City of Miami Beach to enter my property for the sole purpose of posting a NOTICE OF PUBLIC HEARING on my property as required by law and I take the responsibility of removing this notice after the date of hearing.

SIGNATURE

Sworn to and subscribed before me this ____ day of _____, 2003. The foregoing instrument was acknowledged before me by _____, who has produced _____ as identification and/or is personally known to me and who did/did not take an oath.


STATE OF FLORIDA
COUNTY OF MIAMI-DADE
MY COMMISSION EXPIRES:

NOTARY PUBLIC

PRINT NAME

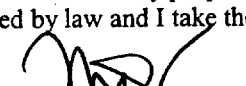
OWNER/POWER OF ATTORNEY AFFIDAVIT

I, MELANIE MUSS, being duly sworn and deposed say that I am the owner of the described real property and that I am aware of the nature and effect of the request for DESIGN REVIEW APPROVAL relative to my property, which request is hereby made by me OR I am hereby authorizing CARTER N. MCDOWELL, BILZIN SUMBERG ET AL. to be my legal representative before the Design Review/Historic Preservation Board.



MELANIE MUSS, VICE PRESIDENT & SECRETARY, KDM CORPORATION, GENERAL PARTNER, HOTELERAMA ASSOCIATES, LTD.

I, MELANIE MUSS, hereby authorize the City of Miami Beach to enter my property for the sole purpose of posting a NOTICE OF PUBLIC HEARING on my property as required by law and I take the responsibility of removing this notice after the date of hearing.

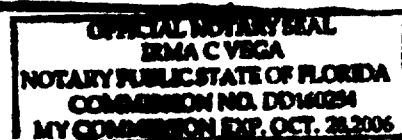


MELANIE MUSS, VICE PRESIDENT & SECRETARY, KDM CORPORATION, GENERAL PARTNER, HOTELERAMA ASSOCIATES, LTD.

Sworn to and subscribed before me this 2 day of OCTOBER, 2003. The foregoing instrument was acknowledged before me by MELANIE MUSS, who has produced _____ as identification and/or is personally known to me and who did/did not take an oath.

STATE OF FLORIDA

COUNTY OF MIAMI-DADE
MY COMMISSION EXPIRES:





NOTARY PUBLIC

IRMA C. VEGA
PRINT NAME

CORPORATION or PARTNERSHIP AFFIDAVIT (circle one)

I, MELANIE MUSS, being duly sworn, depose and say that I am the Vice President and Secretary of KDM CORPORATION, THE GENERAL PARTNER OF HOTELERAMA ASSOCIATES, LTD. and as such, have been authorized by the corporation to file this application; that all answers to the questions in said application and all sketches, data and other supplementary matter attached to and made a part of the application are honest and true to the best of our knowledge and belief; that said corporation is the tenant/owner of the property described herein and is the subject matter of the proposed hearing. We understand this application must be completed and accurate before a hearing can be advertised.

MELANIE MUSS
MELANIE MUSS, VICE PRESIDENT &
SECRETARY, KDM CORPORATION, GENERAL
PARTNER, HOTELERAMA ASSOCIATES, LTD.

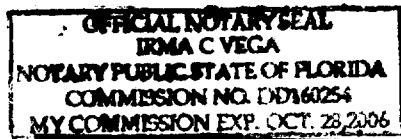
MELANIE MUSS
PRINT NAME

I, Melanie Muss, hereby authorize the City of Miami Beach to enter my property for the sole purpose of posting a NOTICE OF PUBLIC HEARING on my property as required by law and I take the responsibility of removing this notice after the date of hearing.

MELANIE MUSS
MELANIE MUSS, VICE PRESIDENT &
SECRETARY, KDM CORPORATION, GENERAL
PARTNER, HOTELERAMA ASSOCIATES, LTD.

Sworn to and subscribed before me this 2 day of OCTOBER 2003. The foregoing instrument was acknowledged before me by MELANIE MUSS, who has produced _____ as identification and/or is personally known to me and who did/did not take an oath.

STATE OF FLORIDA
COUNTY OF MIAMI-DADE
MY COMMISSION EXPIRES:



IRMA C. VEGA
NOTARY PUBLIC
PRINT NAME

CONTRACT FOR PURCHASE

If there is a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether a corporation, trustee or partnership, list the names of the contract purchasers below, including the principal officers, stockholders, beneficiaries or partners. Where principal officers, stockholders, beneficiaries or partners consist of another corporation, trust, partnership or similar entity, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership in the entity. If any contingency clause or contract terms involve additional individuals, corporations, partnerships or trusts, list all individuals and/or complete the appropriate disclosure clause above.*

NAME

DATE OF CONTRACT

NAME, ADDRESS AND OFFICE
N/A

% OF STOCK

For any changes of ownership or changes in contracts for purchase subsequent to the date of the application, but prior to the dates of the final public hearing, a supplemental disclosure of interest shall be filed.

**CITY OF MIAMI BEACH
DEVELOPMENT REVIEW BOARD APPLICATION**

DISCLOSURE OF INTEREST

1. CORPORATION

If the property which is the subject matter of the application is owned or leased by a CORPORATION, list the principal stockholders and the percentage of stock owned by each. Where the principal officers or stockholders consist of another corporation(s), trustee(s), partnership(s) or similar entity, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the entity.*

CORPORATION NAME

NAME, ADDRESS, AND OFFICE

% OF STOCK

CORPORATION NAME

NAME, ADDRESS, AND OFFICE

% OF STOCK

IF THERE ARE ADDITIONAL CORPORATION(S), LIST OTHERS, INCLUDING CORPORATION NAME(S) AND EACH INDIVIDUAL'S NAME, ADDRESS, OFFICE AND PERCENTAGE OF STOCK, ON A SEPARATE PAGE.

NOTE: NOTARIZED SIGNATURE REQUIRED ON PAGE 8

**CITY OF MIAMI BEACH
DEVELOPMENT REVIEW BOARD APPLICATION**

DISCLOSURE OF INTEREST

2. TRUSTEE

If the property which is the subject matter of the application is owned or leased by a TRUSTEE, list the beneficiaries of the trust and the percentage held by each. Where the beneficiary/beneficiaries consist of corporation(s), trustee(s), partnership(s) or similar entity, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the entity.*

<u>N/A</u> TRUST NAME	
NAME, ADDRESS, AND OFFICE	% OF STOCK
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

3. PARTNERSHIP/LIMITED PARTNERSHIP

If the property which is the subject matter of the application is owned or leased by a PARTNERSHIP or LIMITED PARTNERSHIP, list the principals of the partnership including general and limited partners. Where the partner(s) consist of corporation(s), trustee(s), partnership(s) or similar entity, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the entity.*

<u>HOTELERAMA ASSOCIATES, LTD.</u> PARTNERSHIP or LIMITED PARTNERSHIP NAME	
NAME, ADDRESS, AND OFFICE	% OF STOCK
<u>SEE EXHIBIT "A"</u>	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

NOTE: NOTARIZED SIGNATURE REQUIRED ON PAGE 8

4. **COMPENSATED LOBBYIST**

The City of Miami Beach Code sub-section 118-31 requires the disclosure of any individual or group which has been, or will be, compensated to either speak in favor of or against a project being presented before any of the City's Development Review Boards, or not to speak at all. Please list below all persons or entities encompassed by this section.

NAME	ADDRESS	PHONE #	TO SPEAK PRO CON	NOT TO SPEAK
a. Carter N. McDowell,	200 S. Biscayne Blvd., # 2500,	Miami, FL. 33131 (305) 350-2355	X	
b. John Nichols,	161 Almeria Ave.,	Coral Gables, FL. (305) 443-5206	X	
c. Don Wolfe,	161 Almeria Ave.,	Coral Gables, FL. (305) 443-5206	X	

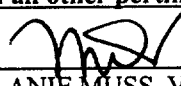
Additional names can be placed on the reverse side of this form.

*Disclosure shall not be required of any entity, the equity interest in which are regularly traded on an established securities market in the United States or other country, or of any entity, the ownership interests of which are held in a limited partnership consisting of more than 5,000 separate interests and where no one person or entity holds more than a total of 5% of the ownership interests in the limited partnership.

The applicant hereby attests that the disclosure information listed on this application is a full disclosure of all parties of interest in this application to the best of my knowledge and belief.

Applicant also hereby acknowledges that any approval granted by the Board so applied to, shall be subject to any and all conditions imposed by said Board and by any other Board having jurisdiction, and that the project must also comply with the code of the City of Miami Beach and all other pertinent ordinances.

PERSON SUBMITTING APPLICATION:


MELANIE MUSS, VICE PRESIDENT &
SECRETARY, KDM CORPORATION, GENERAL
PARTNER, HOTELERAMA ASSOCIATES, LTD.

MELANIE MUSS

Print Name

STATE AFFILIATION WITH APPLICANT (i.e. Agent,
Architect, Attorney, Contractor, etc.)

Phone #

Sworn to and subscribed before me this 2 day of OCTOBER 2008. The foregoing instrument was acknowledged before me by MELANIE MUSS, who has produced _____ as identification and/or is personally known to me and who did/did not take an oath.

STATE OF FLORIDA
COUNTY OF MIAMI-DADE
MY COMMISSION EXPIRES:


NOTARY PUBLIC

PRINT NAME

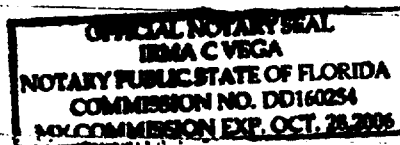


EXHIBIT "A"

HOTELERAMA ASSOCIATES, LTD., a Florida limited partnership
Address: 4441 Collins Avenue, Suite 754, Miami Beach, FL 33140
ID #59-1805724

KDM CORPORATION, a Florida corporation, general partner (sole general partner of
Hotelerama Associates, Ltd.) ID #59-1797651
Percentage: 25.5600%
Address: 4441 Collins Avenue, Suite 754, Miami Beach, FL 33140
(Stephen Muss 100% ownership / Stephen Muss, President/Director; Melanie Muss,
Vice President and Secretary; Alan M. Kurtzman, Treasurer and Asst. Secretary)

Limited Partners of Hotelerama Associates, Ltd.

Stephen Muss
Percentage: 42.1400%
Address: 4441 Collins Avenue, Suite 754, Miami Beach, FL 33140
ID #057-22-0219

Joel Friedland
Percentage: 3.2505%
Address: Bal Harbour Tower, 9999 Collins Avenue, Apt. 19B, Bal Harbour, FL 33154
ID #141-28-1811

Gerald Robins
Percentage: 3.2505%
Address: 33 Star Island, Miami Beach, FL 33139
ID #120-28-4755

AGL and Associates, a New York general partnership (See Attached Schedule "A")
Percentage: 6.3000%
ID #13-2970742

Deborah A. Ross (sole beneficiary of the one-percent interest from E/O Harry Ross and
Roslyn Ross, deceased (Ref: *Roslyn Ross and Deborah A. Ross, as Trustee of the
Deborah Ann Ross Trust 1998*))
Percentage: 1.0000%
Address: 136 East 76th Street, Apt. 5A, New York, NY 10021-2830
ID #061-38-5355

FOT, L.C., a Florida limited liability company (See Attached Schedule "B")
Percentage: 18.4990%
Address: c/o Apollo Real Estate Advisors, L.P.
1301 Avenue of the Americas, 38th Floor, New York, NY 10019
ID #65-0858849

EXHIBIT "A"

SCHEDULE "A"

AGL and ASSOCIATES

	Percentage
Adelman, Barry c/o Friedman Kaplan Seiler & Adelman 1633 Broadway New York, NY 10019	3.2790%
Aron, Carl East 2024 Southeast Boulevard Spokane, WA 99203	0.8200%
Barrett, Thomas c/o Sonnenschein Nath & Rosenthal 1221 Avenue of the Americas, 25 th Floor New York, NY 10020	1.6390%
Baum, Beatrice 880 Fifth Avenue New York, NY 10021	9.1970%
Bilzin, Brian L. 2500 Wachovia Center Miami, FL 33131	4.9180%
Coleman, Martin A. 9422 Turnberry Drive Potomoc, MD 20854	8.1970%
Constant, Irving 9 Otsego Place Jericho, NY 11753	8.1970%
Estate of Friedman, Jack c/o Marilyn Friedman 200 East 57 th Street - 7B New York, NY 10022	8.1970%
Estate of Levin, Abraham c/o Sara Levin 1 Kensington Gate, PH-24 Great Neck, NY 11021	24.5900%

EXHIBIT "A"

Greenberg, Ronald c/o Sonnenschein Nath & Rosenthal 1221 Avenue of the Americas, 25 th Floor New York, NY 10020	6.5570%
Harris, Gerald 24 Central Park South New York, NY 10019	4.0980%
Klimerman, Edward c/o Sonnenschein Nath & Rosenthal 1221 Avenue of the Americas, 25 th Floor New York, NY 10020	2.4590%
Mann, Jeffrey c/o Greenberg Traurig 885 Third Avenue New York, NY 10022	3.2790%
Marshall, Stephen c/o Sonnenschein Nath & Rosenthal 1221 Avenue of the Americas, 25 th Floor New York, NY 10020	4.0980%
Rosenbloom, Alan c/o Sonnenschein Nath & Rosenthal 1221 Avenue of the Americas, 25 th Floor New York, NY 10020	4.0980%
Sheinberg, Richard 627 Woodside Avenue P.O. Box 2593 Park City, UT 84060	1.6390%
Weinberger, Michael c/o Sonnenschein Nath & Rosenthal 1221 Avenue of the Americas, 25 th Floor New York, NY 10020	<u>5.7380%</u> 100.0000%

EXHIBIT "A"

FOT LC

Gerald Katcher	0.04%
Bruce Kaye	0.14%
Gerald Robins	4.87%
Gina Robins	0.04%
Joan C. Robins	0.04%
Scott B. Robins	1.22%
Craig Robins	1.24%
Stacy L. Robins	0.02%
Gerald Katcher, Personal Representative of the Estate of Howard Scharlin	0.04%
Hyatt Corporation	0.98%
Roberts & Holland	0.02%
Paul, Weiss, Rifkind, Wharton & Garrison	0.02%
Blue Sunshine, L.L.C.	91.35%
See Below	100.00%

Blue Sunshine, L.L.C.

THE NORTHERN TRUST COMPANY AS TRUSTEE OF THE LUBEN ATZEFF IRA	1.85%
LEON D. BLACK 1997 FIVE YEAR TRUST	12.50%
TOM BEVAN	0.35%
ROBERT BODEY	1.39%
ROBIN BOND	1.16%
ANDREW COHEN	1.39%
RENNY GOLDSTEIN	5.56%
JOHN J. HANNAN FAMILY TRUST	12.50%
JOHN JACOBSSON	6.48%
NITIN KARNANI	3.47%
STUART KOENIG	2.78%
KOENIG FAMILY IRREVOCABLE TRUST	1.39%
RICHARD MACK	2.78%
SHARI MOROKNEK	0.35%
LEE NEIBART	8.33%
KENNETH PICACHE	2.78%
KENNETH PICACHE - B	0.23%
RONALD SOLOTRUK	2.78%
WILLIAM SCULLY	1.39%
RANDY TORRES	2.78%
ALFRED TRIVILINO	2.78%
WRS ADVISORS III, LLC	25.00%
See Below	100.00%

WRS ADVISORS III, LLC

William Mack	33.33%
Richard Mack	33.33%
Stephen Mack	33.33%

EXHIBIT "B"

PAGE 1 OF 4

LEGAL DESCRIPTIONPARCEL 1:

Lot "A" of the Amended Plat of "THE INDIAN BEACH CORPORATION'S SUB-DIVISION", according to the Plat thereof, recorded in Plat Book 8, Page 61, of the Public Records of Dade County, Florida; together with a parcel of land lying between the Westerly boundary of Collins Avenue as it now exists and the Easterly boundary of Indian Creek and described as follows: Bounded on the Easterly side by a line parallel to and 125 feet Westerly of the Easterly line of Collins Avenue; bounded on the Westerly side by a line parallel to and 6 feet Westerly of the above described Easterly boundary; bounded on the Southerly side by the Southerly line of said Lot "A" produced Westerly; and bounded on the Northerly side by the Northerly line of said Lot "A" produced Westerly; also together with the strip of land lying East of the sea wall between the Northerly and Southerly lines of said Lot "A" extended East to the low water mark of the Atlantic Ocean, as shown on the Amended Plat of "The Indian Beach Corporation's Subdivision", recorded in Plat Book 8, Page 61, of the Public Records of Dade County, Florida; together with all accretion and common law and statutory riparian and littoral rights and submerged lands adjacent and appurtenant to the above described tracts; AND

PARCEL 2:

Lots 1 and 2, and the South 1/2 of Lot 3, of the Amended Plat of "THE INDIAN BEACH CORPORATION'S SUBDIVISION", according to the Plat thereof, recorded in Plat Book 8, Page 61, of the Public Records of Dade County, Florida; together with a strip of land lying Westerly of the unnumbered out-lots which lie Westerly of and opposite to Lots 1 and 2, and the Southerly 50 feet of Lot 3, of the Amended Plat of "The Indian Beach Corporation's Subdivision", recorded in Plat Book 8, Page 61, of the Public Records of Dade County, Florida, bounded as follows: Bounded on the Easterly side by a line parallel to and 125 feet Westerly of the Easterly line of Collins Avenue; bounded on the Westerly side by a line parallel to and 6 feet Westerly of the above described Easterly boundary; bounded on the Southerly side by the Southerly line of said Lot 1, produced Westerly; bounded on the Northerly side by a line parallel to and 50 feet Northerly of the Southerly line of said Lot 3, produced Westerly; together with all accretion and common law and statutory riparian and littoral rights and submerged lands adjacent and appurtenant to the above described tracts; AND

PARCEL 3:

That part of Government lots 5 and 8 in Section 23, Township 53 South, Range 42 East, Dade County, Florida, more particularly described as follows:

Beginning at a point North 9 degrees 24 minutes East and 575 feet from a concrete monument which is set at the Northeast corner of the intersection of Collins Avenue and 19th Street and shown on the Amended Map of Ocean

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Front Property of the Miami Beach Improvement Company, according to the Plat thereof recorded in Plat Book 5, at Pages 7 and 8, of the Public Records of Dade County, Florida; thence South 80 degrees 36 minutes East a distance of 275 feet more or less to the low water line of the Atlantic Ocean; thence Northerly 125 feet more or less along the low water line of the Atlantic Ocean to a point South 80 degrees 36 minutes East, 275 feet, more or less, from a point which is North 9 degrees 24 minutes East and 125 feet from the Point of Beginning; thence North 80 degrees and 36 minutes West a distance of 275 feet, more or less, to said point North 9 degrees 24 minutes East and 125 feet from the Point of Beginning; thence South 9 degrees 24 minutes West, a distance of 125 feet of the Point of Beginning.

The above described land is also described as the Northerly 125 feet of that certain tract marked and designated "R. P. Van Camp" on the Amended Map of Ocean Front Property of the Miami Beach Improvement Company, as recorded in Plat Book 5, at Pages 7 and 8, of the Public Records of Dade County, Florida, said tract being bounded on the East by the Atlantic Ocean, on the West by the Easterly line of Collins Avenue, and on the South by a line 75 feet North and parallel to the North line of Lot 1, Block 39, of the Amended Map of the Ocean Front Property of the Miami Beach Improvement Company aforesaid, and on the North by a line 200 feet North of and parallel to the Northerly line of said Lot 1, Block 39; together with all accretion and common law and statutory riparian and littoral rights and submerged lands adjacent and appurtenant to the above described tract; AND

PARCEL 41

All of that certain tract of land designated as "J.H. Snowden", less the South 64.55 feet thereof, as shown on the Amended Map of the Ocean Front Property of the Miami Beach Improvement Company, according to the Plat thereof, recorded in Plat Book 5, at Page 8, of the Public Records of Dade County, Florida;

Less and except the portion thereof that is included in the following described parcel:

A portion of that certain tract of land designated as "J.H. Snowden" lying north of and adjoining Lot 1, Block 40, of "Amended Map of the Ocean Front Property of the Miami Beach Improvement Company", according to the plat thereof, as recorded in Plat Book 5 at pages 7 and 8, of the public records of Miami-Dade County, Florida, and a portion of said Lot 1, Block 40, being more particularly described as follows:

COMMENCE at the northwest corner of that certain tract of land designated as "R.P. Van Camp" as shown on said "Amended Map of the Ocean Front Property of the Miami Beach Improvement Company" plat, thence S 07°26'11" W, along the west line of said "R.P. Van Camp" tract, and the west line of Lot 1, Block 39, of said "Amended Map of the Ocean Front Property of the Miami Beach Improvement Company" plat, said line also being the east right-of-way line of Collins Avenue, for a distance of 220.45 feet, thence N 82°34'49" W, for a distance of 60.00 feet to a point on the east line of said Lot 1, Block 40, said line also being the west right-of-way line of Collins Avenue, and said point also being the POINT OF BEGINNING, thence N 37°36'00" W, for a distance of 35.36 feet, thence N 82°34'49" W, along a line parallel with and 4.68 feet north of, as

EXHIBIT "B"
PAGE 3 OF 4

measured at right angles to the south line of said "J.H. Snowden" tract, for a distance of 200.22 feet to a point on the west line of said "J.H. Snowden" tract, said line also being the east right-of-way line of Indian Creek Drive, thence N 04°33'25" E, along the last described line, for a distance of 63.56 feet to a point of curvature of a circular curve to the right, thence along the arc of said curve, having a radius of 50.00 feet, a central angle of 27°21'20", for a distance of 23.67 feet to a point on the arc of a circular curve to the left being non-tangent with the last described curve and whose radius point bears N 74°49'14" E, thence along the arc of said curve having a radius of 75.00 feet, a central angle of 67°24'03", for a distance of 88.23 feet to the point of tangency, thence S 82°34'49" E, along a line parallel with and 44.66 feet north of, as measured at right angles to the south line of said "J.H. Snowden" tract, for a distance of 148.91 feet, thence N 47°19'52" E, for a distance of 10.67 feet, thence S 07°25'11" W, along the east line of said "J.H. Snowden" tract and the east line of said Lot 1, Block 40, said line also being the west right-of-way line of Collins Avenue, for a distance of 98.11 feet to the POINT OF BEGINNING;

AND

PARCEL 5:

A portion of Collins Avenue (a portion of which is otherwise known as 44th Street), as shown on "Amended Map of the Ocean Front Property of the Miami Beach Improvement Company", according to the plat thereof, as recorded in plat book 5 at pages 7 and 8, and on "Amended Plat of the Indian Beach Corporation's Subdivision of Lands in Gov'l Lots 1-2-3-4-5-6 and 7 of Sec. 23 - Twp. 53S. - Rge. 42E.", according to the plat thereof, as recorded in plat book 8 at page 41 of the public records of Miami-Dade County, Florida, being more particularly described as follows:

BEGIN at the northwest corner of that certain tract of land designated as "R.P. Van Camp" as shown on said "Amended Map of the Ocean Front Property of the Miami Beach Improvement Company" plat, thence S 07°25'11" W, along the west line of said "R.P. Van Camp" tract, said line also being the east right-of-way line of Collins Avenue, for a distance of 125.00 feet, thence N 82°34'49" W, for a distance of 60.00 feet to a point on the east line of that certain tract of land designated as "J.H. Snowden" lying north of and adjoining Lot 1, Block 40, of said "Amended Map of the Ocean Front Property of the Miami Beach Improvement Company" plat, said line also being the west right-of-way line of Collins Avenue, thence N 07°25'11" E, along the last described line, for a distance of 15.00 feet to a point of curvature of a circular curve to the left, thence along the arc of said curve, having a radius of 50.00 feet, a central angle of 90°00'00", for a distance of 78.54 feet to the point of tangency, thence N 82°34'49" W, along the north line of said "J.H. Snowden" tract, said line also being the south right-of-way line of Collins Avenue (otherwise known as 44th Street), for a distance of 129.44 feet to a point of curvature of a circular curve to the left, thence along the arc of said curve, having a radius of 50.00 feet, a central angle of 66°30'26", for a distance of 57.17 feet to a point on the arc of a circular curve to the right being non-tangent with the last described curve and whose radius point bears N 74°49'14" E, thence along the arc of said curve having a radius of 75.00 feet, a central angle of 24°50'24", for a distance of 32.62 feet to the point of tangency, thence N 07°39'38" E, for a distance of 132.86 feet to a point of cusp, said point also being a point on the arc of a circular curve to the left whose radius point bears S 80°20'22" E, thence along the arc of said curve having a radius of 72.40 feet, a central angle of 92°14'27", for a distance of 116.56 feet to the point of tangency, thence S 82°34'49" E, along the south line of Tract "A" as shown on said "Amended Plat of the Indian Beach Corporation's Subdivision of Lands in Gov'l Lots 1-2-3-4-5-6 and 7 of Sec. 23 - Twp. 53S. - Rge. 42E." plat, said line also being the north right-of-way line of Collins Avenue (otherwise known as 44th Street), for a distance of 213.10 feet to the POINT OF BEGINNING;

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EXHIBIT "B"
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LESS AND EXCEPTING FROM SAID PARCELS 1 THROUGH 5 THE TOWER BUILDING DESCRIBED AS FOLLOWS:

A PORTION OF LOT 'A' OF THE AMENDED PLAT OF "THE INDIAN BEACH CORPORATION'S SUBDIVISION" ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 5, PAGE 61 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, TOGETHER WITH A PORTION OF VACATED 44TH STREET AND THE RIGHT-OF-WAY ADJACENT THERETO AND TOGETHER WITH A PORTION OF THE J.H. SNOWDEN PARCEL, ON AMENDED MAP OF OCEAN FRONT PROPERTY OF THE MIAMI BEACH IMPROVEMENT COMPANY, AS RECORDED IN PLAT BOOK 5, AT PAGE 8 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

THE VERTICALLY ENCLOSED AREA BEGINNING 72.7 FEET ABOVE D.D. (NATIONAL GEODETIC VERTICAL DATUM OF 1929) AND EXTENDING WITHOUT LIMIT ABOVE SAID ELEVATION 72.7 FEET, WHICH SAID 72.7 FOOT ELEVATION IS SET ON THE COURSE SET FORTH AS FOLLOWS:

COMMENCE AT THE INTERSECTION OF THE EAST RIGHT-OF-WAY LINE OF COLLINS AVENUE WITH THE NORTH RIGHT-OF-WAY LINE OF VACATED 44TH STREET, MIAMI BEACH, BEING ALSO THE NORTHWESTERLY CORNER OF THAT CERTAIN TRACT OF LAND DESIGNATED AS "R.P. VAN CAMP" AS SHOWN ON THE AMENDED MAP OF OCEAN FRONT PROPERTY OF THE MIAMI BEACH IMPROVEMENT COMPANY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 5, AT PAGES 7 AND 8 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA;
THENCE NORTH 82°34'45" WEST, ALONG SAID NORTH RIGHT-OF-WAY LINE OF VACATED 44TH STREET, A DISTANCE OF 43.90 FEET TO A POINT;
THENCE VERTICALLY TO AN ELEVATION OF 72.7 FEET ABOVE MEAN SEA LEVEL (NATIONAL GEODETIC VERTICAL DATUM OF 1929), TO
POINT OF BEGINNING NO. 1
THENCE SOUTH 07°27'50" WEST, A DISTANCE OF 53.00 FEET TO
REFERENCE POINT 'A';
THENCE NORTH 82°32'10" WEST, A DISTANCE OF 218.08 FEET;
THENCE NORTH 07°27'50" EAST, A DISTANCE OF 134.54 FEET;
THENCE SOUTH 82°32'10" EAST, A DISTANCE OF 218.08 FEET;
THENCE SOUTH 07°27'50" WEST, A DISTANCE OF 51.54 FEET TO
POINT OF BEGINNING NO. 1

SAID LAND SITUATED IN MIAMI BEACH, MIAMI-DADE COUNTY, FLORIDA.

TOGETHER WITH:

THE VERTICALLY ENCLOSED AREA LYING 59.2 FEET ABOVE D.D. (NATIONAL GEODETIC VERTICAL DATUM OF 1929) AND EXTENDING 5.50 FEET ABOVE SAID ELEVATION 59.2 WHICH SAID 59.2 FOOT ELEVATION IS SET ON THE COURSE SET FORTH BELOW COMPRISING
THE SWIMMING POOL:

COMMENCE AT REFERENCE POINT 'A';
THENCE SOUTH 07°27'50" WEST, A DISTANCE OF 30.80 FEET;
THENCE NORTH 83°42'17" WEST, A DISTANCE OF 72.54 FEET TO A POINT;
THENCE VERTICALLY TO AN ELEVATION OF 59.2 FEET, (NATIONAL GEODETIC VERTICAL DATUM OF 1929), TO POINT OF BEGINNING NO. 2
THENCE SOUTH 07°27'50" WEST, A DISTANCE OF 20.41 FEET;
THENCE NORTH 82°32'10" WEST, A DISTANCE OF 56.86 FEET;
THENCE NORTH 07°27'50" EAST, A DISTANCE OF 20.41 FEET;
THENCE SOUTH 82°32'10" EAST, A DISTANCE OF 56.86 FEET TO
POINT OF BEGINNING NO. 2

SAID LAND SITUATED IN MIAMI BEACH, MIAMI-DADE COUNTY, FLORIDA.

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: November 18, 2003

IN RE: The Application for Design Review Approval for the demolition of an existing hotel and the reconstruction of the façade, as well as the construction of a new, 18 story hotel tower.

FILE NO: 17369

PROPERTY: 4441 Collins Avenue – Fontainebleau III

ORDER

The applicant, Hotelerama Associates, Ltd., filed an application with the City of Miami Beach Planning Department for Design Review Approval.

The City of Miami Beach Design Review Board makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the record for this matter:

- A. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is not consistent with Design Review Criteria 2 and 3 in Section 118-251 of the Miami Beach Code.
- B. The project would be consistent with the criteria and requirements of section 118-251 if the following conditions are met:
 - 1. Revised elevation, site plan and floor plan drawings, in accordance with the application drawings and Exhibit "A" submitted at the hearing, shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:
 - a. Sufficient parking shall be provided on site, for the condo-hotel units, restaurant, social club, and any other accessory uses in accordance with the zoning regulations. This may include reducing the number of units, expanding the size of the units, or providing additional parking spaces.
 - b. A complete zoning analysis shall be submitted which includes Floor Area and parking calculations for the entire Fontainebleau parcel. Such calculations shall clearly indicate the current F.A.R. and proposed F.A.R. for the entire property. Copies of any past legal agreements with the City of Miami Beach which allows for an F.A.R. greater than that which is allowed under the current zoning regulations shall also be submitted.
 - c. Dimensions of the drive aisles and parking spaces shall be provided to ensure compliance with the minimum requirements of the zoning regulations.

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- d. Axonometric and 3-dimensional details, sections and drawings of all elevations shall be required.
 - e. Details and dimensions of the proposed screening rooftop element, parking screening, balcony rails, cabanas, surface color finishes, and glazing finishes shall be submitted to and approved by staff.
 - f. The historic façade of the Sorrento Hotel shall be reconstructed in a manner to be reviewed and approved by staff.
2. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding site plan, shall be submitted to and approved by staff. The species type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plan shall incorporate the following:
 - a. All exterior walkways shall consist of decorative pavers, set in sand or other semi-pervious material, subject to the review and approval of staff.
 - b. All landscape areas abutting driveways and parking areas shall be defined by decorative bollards.
 - c. A fully automatic irrigation system with 100% coverage and an automatic rain sensor in order to render the system inoperative in the event of rain. Right-of-way areas shall also be incorporated as part of the irrigation system.
 - d. The landscape plan shall satisfy all requirements as specified in Chapter 33 of the Miami-Dade County Code. A landscape table shall be provided on final landscape plans addressing all minimum quantity and native requirements, subject to the review and approval of staff.
 - e. The location of backflow preventor, siamese pipes or FPL boxes, if any, and how they are screened with landscape material from the right-of-way, shall be indicated on the plans and shall be subject to the review and approval of staff.
3. All building signage shall be consistent in type, composed of flush mounted, non-plastic individual letters and shall require a separate permit.
4. The final exterior surface color scheme, including color samples, shall be subject to the review and approval of staff and shall require a separate permit.
5. A traffic mitigation plan, which addresses all roadway Level of Service (LOS) deficiencies relative to the concurrency requirements of the City Code, if required, shall be submitted prior to the issuance of a Building Permit and the final building plans shall meet all other requirements of the Land Development Regulations of the City Code.

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6. Manufacturers drawings and Dade County product approval numbers for all new windows, doors and glass shall be required, prior to the issuance of a building permit.
7. All roof-top fixtures, air-conditioning units and mechanical devices shall be clearly noted on a revised roof plan and shall be screened from view, in a manner to be approved by staff.
8. All new and altered elements, spaces and areas shall meet the requirements of the Florida Accessibility Code (FAC).
9. The applicant may be required to submit a separate analysis for water and sewer requirements, at the discretion of the Public Works Director, or designee. Based on a preliminary review of the proposed project, the following may be required by the Public Works Department:
 - a. Remove/replace sidewalks, curbs and gutters on all street frontages, if applicable.
 - b. Mill/resurface asphalt in rear alley along property, if applicable.
 - c. Provide underground utility service connections and on-site transformer location, if necessary.
 - d. Provide back-flow prevention devices on all water services.
 - e. Provide on-site, self-contained storm water drainage for the proposed development.
 - f. Meet water/sewer concurrency requirements including a hydraulic water model analysis and gravity sewer system capacity analysis as determined by the Department and the required upgrades to water and sewer mains servicing this project.
 - g. Payment of City utility impact fees for water meters/services.
 - h. Provide flood barrier ramps to underground parking or minimum slab elevation to be at highest adjacent crown road elevation plus 8".
 - i. Right-of-way permit must be obtained from Public Works.
 - j. All right-of-way encroachments must be removed.
 - k. All planting/landscaping in the public right-of-way must be approved by the Public Works and Parks Departments.
10. The project shall comply with any landscaping or other sidewalk/street improvement standards as may be prescribed by a relevant Urban Design Master Plan approved prior to the completion of the project and the issuance of a Certificate of Occupancy.

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Meeting Date: November 18, 2003
DRB File No. 17369

11. The Final Order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.

IT IS HEREBY ORDERED, based upon the foregoing findings of fact, the evidence, information, testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which are adopted herein, including the staff recommendations which were amended by the Board, that the Application for Design Review approval is GRANTED for the above-referenced project subject to those certain conditions specified in Paragraph B of the Findings of Fact (Condition Nos. 1-11, inclusive) hereof, to which the applicant has agreed.

No building permit may be issued unless and until all conditions of approval as set forth herein have been met. The issuance of Design Review approval does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including zoning approval. If adequate handicapped access is not provided, this approval does not mean that such handicapped access is not required or that the Board supports an applicant's effort to seek waivers relating to handicapped accessibility requirements.

When requesting a building permit, three (3) sets of plans approved by the Board, modified in accordance with the above conditions, shall be submitted to the Planning Department. If all of the above-specified conditions are satisfactorily addressed, the plans will be reviewed for building permit approval. Two (2) sets will be returned to you for submission for a building permit and one (1) set will be retained for the Design Review Board's file. If the Full Building Permit is not issued within eighteen (18) months of the meeting date at which this Design Review Approval was granted and construction does not commence and continue in accordance with the requirements of the applicable Building Code, the Design Review Approval will expire and become null and void.

Dated this 1 day of December, 2003.

DESIGN REVIEW BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY: Thomas R. Mooney
THOMAS R. MOONEY, AICP
DESIGN AND PRESERVATION MANAGER
FOR THE CHAIR

Approved As To Form: _____
Legal Department: JSK (11-26-03)

Filed with the Clerk of the Design Review Board on 12/1/03 (at)

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**THE CITY OF MIAMI BEACH
DESIGN REVIEW BOARD**

**BY-LAWS AND RULES OF ORDER
(REVISED 12/18/00)**

**ARTICLE I
ORGANIZATION**

Section 1. MEMBERS

The Board membership shall consist of seven (7) members whose residence, term of office, place of business, and appointment are consistent with the requirements as listed in the City Code. All members shall serve without compensation and shall hold no other City of Miami Beach municipal office. The Planning Director, or designee, and one person appointed by the City Manager from an eligibility list provided by the Mayor's Barrier Free Environment Committee (or its successor), or their designees, are ex-officio members without the right to vote.

Section 2. OFFICERS

At the regular meeting in January of each year or as soon after as is practical, the Board shall elect a Chairperson and Vice-Chairperson.

Section 3. CHAIRPERSON: POWERS AND DUTIES

The Chairperson shall vote and be recorded on all matters coming before the Board. Subject to these rules, the Chairperson shall decide all points of order unless overruled by a majority of the Board in session at the time. The Chairperson shall appoint such committees as may be found necessary or desirable. The Chairperson or Vice-Chairperson in his/her absence shall preside over meetings and shall administer oaths.

Section 4. VICE-CHAIRPERSON

The Vice-Chairperson shall act as Chairperson in case the Chairperson is absent, disabled, or otherwise unable to perform his duties.

Section 5. CLERK

The Planning Director or his designated representative shall act as Clerk or Secretary for the Board. The Clerk shall prepare all of the clerical work of the Board including: all correspondence of the Board, sending all notices required by law and rules of order of the Board, keep dockets and minutes of the Board's proceedings, compile all required records, maintain necessary files and indexes, and prepare and file an order in each case. The Clerk shall keep the minutes of the Board's proceedings showing the vote of each

member upon each question, or if absent, or failing to vote, indicating such fact.

Section 6. QUORUM AND VOTING REUIREMENTS

Foujr (4) members must be present at any meeting of the Board to constitute a quorum. If a quorum is not present, all applications and matters will be continued until the next meeting or as otherwise provided by the present members of the Board. An affirmative vote of four (4) members shall be required to approve an application for Design Review and to take any action with respect to a Design Review application, including, without limitation, continuance, deferral, extension and modification. Except as provided in the foregoing sentence, the affirmative vote of a majority of the quorum shall be required for Board action.

Section 7. CONFLICT OF INTEREST

Members of the Board shall abide by the applicable provisions of Florida Statutes, Ch. 112 (1995), as amended, Metropolitan Dade County, Fla. Code Ch. 2 (1987), as amended, and Code of the City of Miami Beach Ch. 2, Art. III (1964), as amended, regarding voting conflicts and disclosures of financial interests.

Section 8. REGULAR MEETINGS

Regular meetings of the Board are open to the public and shall be held from time to time in City Hall. Change of meeting date/time may be at the call of the Chairperson and as the Board may determine with a minimum of fifteen (15) days notice.

Section 9. SPECIAL MEETINGS

Special meetings may be called by the Chairperson, or at the written request of three (3) members. Written notice of such special meeting as to time, place and subject matter shall be given by mail or telecopier to each member of the Board, the Planning Director, the individual appointed by the City Manager based upon recommendations from the Mayor's Barrier Free Enmvironment Committee (or its successor), and the City Attorney, at least 48 hours before the time set. Notice of a special meeting shall be transmitted in the most expeditious manner available under the circumstances to such news media as is usually notified of Board meetings. Except that the announcement of a special session at any meeting at which a quorum is present shall be sufficient notice of such meeting.

Section 10. WITHDRAWAL AND CONTINUANCES

An application may be withdrawn without prejudice by written request to the Clerk at any time prior to the giving of any required notice. Except in the instance of an application which would relieve an existing violation, if notice has not been mailed, the applicant may withdraw an application by written request to the Clerk. In the instance where there is an existing violation or notice has been mailed, any request to withdraw an application granted by the Board, in its discretion, shall be with prejudice (i.e. the application cannot be refiled within six months), except in the event the Board permits the withdrawal without prejudice at the time the request is considered; provided, however, no application may be withdrawn after final action has been

taken.

In the instance where there is an existing violation or notice has been mailed, a request for continuance must be submitted in writing by the applicant prior to the meeting, and the applicant or his representative shall be present to hear any protest and to present his case if the Board decides against a continuance and to hear the case.

Deferrals or continuances for an application shall not exceed one (1) year cumulatively for all such continuances or deferrals made by the Board, or the application shall be deemed null and void.

Section 11. AMENDMENT

These rules may be amended by an affirmative vote of not less than five (5) members of the Board, provided that such amendment shall be presented in writing at a regular meeting and action taken thereon at a subsequent regular meeting.

Section 12. RULES OF ORDER

Robert's Rules of Order, as amended, shall govern the Design Review Board in all cases to which they are applicable and are not inconsistent with the By-laws or special rules of order of the Board.

ARTICLE II APPLICATIONS TO THE BOARD

Section 1. APPLICATIONS

Every application for action by the Board shall be made on the appropriate official form. These forms shall be furnished by the Clerk upon request. The Planning Department shall be responsible for determining the requirements for a complete application, which shall include, among other requirements, and exhibits as listed in the application instructions, as amended by the Planning Director, as well as the completion and submission of a financial affidavit (in approved form) attesting to the officers and the stockholders, partners, beneficiaries or other interested parties, as applicable, so that the identity of the individuals having the ultimate ownership interest in the entity is disclosed. Any communication, purporting to be an application, shall be treated as mere notice of intention to complete and submit an application, until such time as it is made on the official application form. All information called for by the form shall be furnished by the applicant in the manner therein prescribed before the deadline date, as determined by the Planning Department. If the application, required exhibits, and information is not complete and correct before the deadline date, consideration of the application or request shall not be placed on the agenda for that meeting and shall not be placed on an agenda until the application is complete and correct.

Section 2. DEADLINE FOR APPLICATIONS

All applications and requests (including supplementary materials) must be completed and on file with the Clerk of this Board no later than 12:00 p.m. of the deadline date. The Planning Director shall determine the final date for acceptance of applications for each meeting.

Section 3. BOARD TO HEAR ONLY BONAFAIDE CASES

The Board may hear only those applications for design review brought by the legal title owner of record of the subject property, by a prospective purchaser holding an option to purchase the property in question, pursuant to a binding contract entered into with the legal title owner of record, or a tenant pursuant to a written lease agreement provided that the fee simple owner authorizes and joins in the application.

**ARTICLE III
THE HEARING/MEETING**

Section 1. NOTICE

- A. Not less than fifteen (15) days prior to the public hearing date on an application for Design Review approval, a description of the request and the time and place of such hearing shall be advertised in a paper of general paid circulation in the City; notice shall also be given by mail to owners of record of land lying within 375 feet of the subject property.
- B. The Board shall request the appearance at the meeting of such representatives of any municipal department, any municipal board, agency, trust, commission, building inspector, zoning inspector, or other officer having supervision of the construction of buildings or the power of enforcing municipal building and zoning laws as are deemed necessary or helpful in making its decisions upon the application.

Section 2. ORDER OF BUSINESS OF THE HEARING

The Board shall conduct its public hearing in accordance with the quasi judicial procedures set forth in Resolution No. 95-21556, as amended by Resolution No. 95-21823 adopted by the City Commission on November 21, 1995, as amended.

The order of business at all regular meetings of the Board shall be as follows, except to the extent modified by the Chairperson at his/her discretion:

- I. Attendance

- II. Approval of Minutes
- III. Request for Deferrals/Continuances
- IV. Old/New Business
- V. Requests for Extensions of Time
- VI. Applications for Design Review Approval
 - A. Returning applicants
 - B. Revisions to previously approved plans
 - C. New applicants
- VII. Future Meeting Date Reminder
- VIII. Adjournment.

Section 3. TESTIMONY AND DOCUMENTS

- A. At the hearing of an application or request before the Board, the applicant shall appear in his/her own behalf or be represented by counsel or agent. Presentations by applicants shall not exceed ten (10) minutes, unless otherwise authorized by the Chairperson of the Board, in his/her discretion.
- B. Any person interested in any application or request before the Board is entitled to be heard when the application or request is called and may appear in person, or be represented by an attorney or agent.
- C. Any person testifying shall clearly identify himself, his interest in the proceedings, any special credentials that he may have pertaining to the subject matter of his testimony. All testimony shall be limited to the issues surrounding the pertinent agenda items only and testimony from those parties not affiliated with a particular applicant shall be limited to two (2) minutes or as determined by the Board Chairperson.
- D. The Board may listen to any testimony and inspect any data, or any sites as it may deem necessary to enable it to render a fair and informed decision.
- E. Any person before the rostrum shall abide by the order and direction of the Chairperson. Discourtesy or disorderly or contemptuous conduct shall be regarded as a breach of the privileges of the Board and shall be dealt with as the Chairperson deems proper.
- F. Any documents provided shall be clearly identified by name, or some other designation, and the

persons so providing them shall also be identified.

- G. A record shall be made of all the proceedings by either a tape recorder or some other appropriate means.
- H. Written protests or petitions shall be filed with the Clerk and submitted to the Board at any time before the hearing.
- I. The Chairperson shall have the discretion to establish time limitations for all presentations before the Board.

Section 4. DECISIONS OF THE BOARD

After making a decision on the application, the Design Review Board shall issue a written decision stating its finding of facts, its conclusions, and the reasons therefore.

ARTICLE IV DISPOSITION BY THE BOARD

Section 1. PETITIONS FOR REHEARING

Cases heard and decided by this Board will not be again set down for hearing by this Board within six (6) months of the date of such decision unless the Board makes its decision without prejudice to refile within such time limitation.

The Design Review Board may hear a Petition for Rehearing by an applicant, by the City Manager on behalf of the Administration, or by an affected person, as more particularly provided in the City Code. The Board may rehear a case, take additional testimony, reaffirm their previous decision or issue a new decision.

The petition must demonstrate to the Board that (1) there is newly discovered evidence which will probably change the result if a rehearing is granted, or (2) the Board has overlooked or failed to consider something which renders the decision issued erroneous. A Petition for Rehearing must be filed within fifteen (15) days of the date of the Board's written order issued with respect to the application.

Section 2. APPEAL OF DESIGN REVIEW DECISIONS

Appeals of Design Review Board decisions shall be made in compliance with Article VI of the Land Development Regulations of the City Code, and any other applicable provisions, of the City Code.

Section 3. APPEAL PERIOD AFTER FILING OF BOARD DECISION

A period of twenty (20) days after the filing of the Board's decision must elapse before permits can be issued by the Building Official upon presentation of a copy of the final decision of this Board. Where appeals are taken to the City Commission, or a court of competent jurisdiction, no permits will be issued until the final resolution of all administrative and/or court proceedings, including the expiration of any applicable appeal periods.

F:\PLAN\SDRB\GENERAL\DRBLAWS.R00
Revised and Adopted at the December 18, 2000 DRB Meeting

BILZIN SUMBERG BAENA PRICE & AXELROD LLP

A PARTNERSHIP OF PROFESSIONAL ASSOCIATIONS

200 SOUTH BISCAYNE BOULEVARD, SUITE 2500 • MIAMI, FLORIDA 33131-5340

TELEPHONE: (305) 374-7580 • FAX: (305) 374-7593

E-MAIL: INFO@BILZIN.COM • WWW.BILZIN.COM

Carter N. McDowell, Esquire

Direct Dial: (305) 350-2355

Direct Facsimile: (305) 351-2239

E-mail: cmcdowell@bilzin.com

March 8, 2005

VIA HAND DELIVERY

Thomas R. Mooney, Design & Preservation Manager
Planning, Design & Historic Preservation Division
City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139

Re: Design Review File Number 17369
Order Date: 12/1/03
Property: 4441 Collins Avenue

Dear Tom:

Please accept this letter as a request for a six month extension of the commencement and a six month extension of the completion dates the above-referenced Order for a period of six months. Hotelarama Associates and Turnberry Associates have been working diligently on plans for the Fontainebleau III project approved by this Order. The complete building permit plans were submitted on February 8, 2005, and we anticipate having a foundation permit prior to May 7, 2005. Unfortunately, due to the permit processing requirements we are not certain that we will have a building permit for the whole project by May 7, 2005, and we are therefore requesting this extension of time to allow for the issuance of the permit based upon the plans which have already been submitted.

Thank you in advance for your consideration.

Very Truly Yours,


Carter N. McDowell

Enclosure

MIAMI 864608.1 0225619287

A43

20722PG0219

Prepared by and return to:
 Arnold A. Brown, Esq.
 Bilzin Sumberg Dunn Baena Price & Axelrod LLP
 2500 First Union Financial Center
 Miami, Florida 33131

02R634464 2002 OCT 11 15:25

Part of Folio Nos.:

02-3223-002-0010

02-3226-001-2130

02-3226-001-2180

SPECIAL WARRANTY DEED

DOCSTPOEE 13,404.00 SIXTY 10,053.00
 HARVEY RUVIN, CLERK DADE COUNTY, FL

THIS SPECIAL WARRANTY DEED, made as of the 10th day of October, A.D., 2002, by Hotelarama Associates, Ltd., a Florida limited partnership, party of the first part, whose post office address is 4441 Collins Avenue, Miami Beach, Florida 33140, hereinafter called the Grantor, to TL Fontainebleau Tower Limited Partnership, a Florida limited partnership, party of the second part, whose post office address is 19501 Biscayne Boulevard, Aventura Mall, Suite 400, Aventura, Florida 33180, and whose Federal Identification No. is _____, hereinafter called the Grantee (wherever used herein the term "Grantor" and "Grantee" include all the parties to the instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations):

WITNESSETH: That Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other valuable consideration, the receipt and adequacy of which are hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the Grantee, all that certain land situate in Miami-Dade County, Florida, viz:

See legal description attached hereto and made a part hereof as Exhibit "A"

Subject to:

1. Taxes and assessments for the year 2002 and subsequent years.
2. Zoning and other governmental rules, regulations and ordinances.
3. Easements and restrictions of record, if any, without intent to reimpose or reinstate same hereby.
4. The restrictions, covenants, conditions, terms and other provisions contained in that certain Declaration of Restrictions and Reciprocal Easement Agreement recorded contemporaneously herewith in the Public Records of Miami-Dade County, Florida (the "REA").

589533.01

A44 175

20722PG0220

5. Facts which a current and accurate survey or visual inspection of the property might disclose.
6. The obligation of Grantee, which is hereby confirmed, to vest exclusive control of (and at Grantor's option, convey title to) all "common areas" of the tower building to be erected on said property (such as hallways, lobbies, elevators, stairwells, common lounges, pool and deck, common conference or kitchen facilities and the right to use storage areas, linen rooms and linen chute(s), and other areas that benefit the Tower Building under the REA), to Grantor's designated affiliate at no cost and free of liens at such time as substantially all dwelling units to be erected on said property have been sold or earlier upon mutual reasonable agreement of Grantor and Grantee. Any party acquiring an interest in said property, by doing so, shall be obligated by the foregoing. Without limiting the foregoing, any party acquiring a lien on said property shall not interfere with the exclusive control to be vested as aforestated and shall release its lien on the portion of said property so conveyed for no consideration promptly upon request in conjunction with such conveyance. The foregoing is modified by the provisions contained in paragraph 17 of that certain unrecorded Multi-Party Agreement dated on or about the date hereof between Grantor, Grantee and others, to the extent said paragraph 17 of said Multi-Party Agreement remains in effect and is applicable. Nothing herein contained shall abrogate the rights and obligations of the parties hereto under the REA.

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD the same in fee simple forever.

AND Grantor hereby covenants with Grantee that Grantor is lawfully seized of said property in fee simple and has good right and lawful authority to sell and convey said property; and hereby warrants the title to said property and will defend the same against the lawful claims of all persons claiming by, through or under said Grantor.

THE BALANCE OF THIS PAGE IS BLANK

A45

20722PG0221

Signature page for Deed from
Hotelerama to TL Fontainebleau Tower

IN WITNESS WHEREOF, Grantor has caused this instrument to be
executed as of the day and year first above written.

Signed, sealed and delivered
in the presence of:

Sign Name: [Signature]
Print Name: ARNOLD A. BROWN

Hotelerama Associates, Ltd., a
Florida limited partnership, by
KDM Corporation, a Florida
corporation, its general partner

Sign Name: [Signature]
Print Name: Baron S. Hamaludin

By: [Signature]
Melanie Muss, Vice President

STATE OF Fla)
) SS:
COUNTY OF Mitche)

The foregoing instrument was acknowledged before me this 2 day
of September, 2002, by Melanie Muss as Vice President of KDM
Corporation, as general partner of Hotelerama Associates, Ltd, in the
capacity aforesated; such person is personally known to me or has
produced a driver's license as identification.

Sign Name: [Signature]
Print Name: _____

My Commission Expires:

Notary Public
Serial No. (none if blank): _____
[NOTARIAL SEAL]



A46

EXHIBIT "A" .. LEGAL DESCRIPTION OF TOWER BUILDING:

A PORTION OF LOT 'A' OF THE AMENDED PLAT OF "THE INDIAN BEACH CORPORATION'S SUBDIVISION" ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 8, PAGE 61 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, TOGETHER WITH A PORTION OF VACATED 44th STREET AND THE RIGHT-OF-WAY ADJACENT THERETO AND TOGETHER WITH A PORTION OF THE J.H. SNOWDEN PARCEL, ON AMENDED MAP OF OCEAN FRONT PROPERTY OF THE MIAMI BEACH IMPROVEMENT COMPANY, AS RECORDED IN PLAT BOOK 5, AT PAGE 8 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

THE VERTICALLY ENCLOSED AREA BEGINNING 72.7 FEET ABOVE 0.0 (NATIONAL GEODETIC VERTICAL DATUM OF 1929) AND EXTENDING WITHOUT LIMIT ABOVE SAID ELEVATION 72.7 FEET, WHICH SAID 72.7 FOOT ELEVATION IS SET ON THE COURSES SET FORTH AS FOLLOWS:

COMMENCE AT THE INTERSECTION OF THE EAST RIGHT-OF-WAY LINE OF COLLINS AVENUE WITH THE NORTH RIGHT-OF-WAY LINE OF VACATED 44th STREET, MIAMI BEACH, BEING ALSO THE NORTHWESTERLY CORNER OF THAT CERTAIN TRACT OF LAND DESIGNATED AS "R.P. VAN CAMP" AS SHOWN ON THE "AMENDED MAP OF OCEAN FRONT PROPERTY OF THE MIAMI BEACH IMPROVEMENT COMPANY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 5, AT PAGES 7 AND 8 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA;

THENCE NORTH 82°34'49" WEST, ALONG SAID NORTH RIGHT-OF-WAY LINE OF VACATED 44th STREET, A DISTANCE OF 43.90 FEET TO A POINT; THENCE VERTICALLY TO AN ELEVATION OF 72.7 FEET ABOVE MEAN SEA LEVEL (NATIONAL GEODETIC VERTICAL DATUM OF 1929), TO POINT OF BEGINNING NO. 1;

THENCE SOUTH 07°27'50" WEST, A DISTANCE OF 53.00 FEET TO REFERENCE POINT 'A';

THENCE NORTH 82°32'10" WEST, A DISTANCE OF 218.08 FEET;

THENCE NORTH 07°27'50" EAST, A DISTANCE OF 134.54 FEET;

THENCE SOUTH 82°32'10" EAST, A DISTANCE OF 218.08 FEET;

THENCE SOUTH 07°27'50" WEST, A DISTANCE OF 81.54 FEET TO POINT OF BEGINNING NO. 1;

SAID LAND SITUATED IN MIAMI BEACH, MIAMI-DADE COUNTY, FLORIDA.

TOGETHER WITH:

THE VERTICALLY ENCLOSED AREA LYING 69.2 FEET ABOVE 0.0 (NATIONAL GEODETIC VERTICAL DATUM OF 1929) AND EXTENDING 5.50 FEET ABOVE SAID ELEVATION 69.2 WHICH SAID 69.2 FOOT ELEVATION IS SET ON THE COURSES SET FORTH BELOW COMPRISING THE SWIMMING POOL:

COMMENCE AT REFERENCE POINT 'A';

THENCE SOUTH 07°27'50" WEST, A DISTANCE OF 30.80 FEET;

THENCE NORTH 83°42'17" WEST, A DISTANCE OF 72.54 FEET TO A POINT;

THENCE VERTICALLY TO AN ELEVATION OF 69.2 FEET, (NATIONAL GEODETIC VERTICAL DATUM OF 1929), TO POINT OF BEGINNING NO. 2

THENCE SOUTH 07°27'50" WEST, A DISTANCE OF 20.41 FEET;

THENCE NORTH 82°32'10" WEST, A DISTANCE OF 56.86 FEET;

THENCE NORTH 07°27'50" EAST, A DISTANCE OF 20.41 FEET;

THENCE SOUTH 82°32'10" EAST, A DISTANCE OF 56.86 FEET TO POINT OF BEGINNING NO. 2;

SAID LAND SITUATED IN MIAMI BEACH, MIAMI-DADE COUNTY, FLORIDA.

RECORDED IN OFFICIAL RECORDS BOOK
OF DADE COUNTY, FLORIDA
RECORD VERIFIED
HARVEY RUVIN
CLERK CIRCUIT COURT

A47

CFN 2005R0138279
DR Bk 23074 Pgs 1483 - 1484 (2pgs)
RECORDED 02/10/2005 13:35:32
DEED DOC TAX 2,040.00
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

Prepared by
and Return to:
Palm Coast Title Company, LLC
Turnberry Plaza, Suite 500
2875 Northeast 191st Street
Aventura, Florida 33180

File No. 5516-1001b
Grantee(s) FIN:

[Space Above This Line For Recording Data]

Special Warranty Deed

This Special Warranty Deed made this 8th day of February, 2005 between TL Fontainebleau Tower Limited Partnership, a Florida limited partnership, whose address is c/o Turnberry Associates, 19501 Biscayne Blvd, Suite 400, Aventura, Florida 33180 of the County of Miami-Dade, State of Florida, Grantor, and Heinz Bock and Inge Bock, his wife, whose address is 10 Anchor Court, Marco Island, FL, of the County of Collier, State of Florida, Grantee. Grantor and Grantee are used for singular or plural, as context requires.

(Whenever used herein, the terms "Grantor" and "Grantee" include all parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations.)

WITNESSETH, that said Grantor, for and in consideration of the sum of Ten Dollars and other good and valuable considerations to said Grantor in hand paid by said Grantee, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said Grantee, the Grantee's heirs and assigns forever, the following described land, situate, lying and being in Miami-Dade County, Florida, to-wit:

Unit 1001, of FONTAINEBLEAU II, A CONDOMINIUM, according to the Declaration of Condominium thereof, as recorded on December 30, 2004 in Official Records Book 22955, Page 1343 of the Public Records of Miami-Dade County, Florida.

Parcel Identification Number: A Portion of 02-3223-002-0010

TOGETHER WITH all the tenements, hereditaments and appurtenances thereunto belong or in anywise appertaining.

THIS CONVEYANCE is subject to:

1. Taxes and assessments for the year 2005 and years subsequent thereto.
2. Conditions, reservations, restrictions, limitations, dedications and esements of record.
3. Zoning and other governmental restrictions and regulations.
4. Covenants, conditions, restrictions, exhibits, terms and other provisions of the Declaration of Condominium of Fontainebleau II, a Condominium, as recorded on December 30, 2004 in Official Records Book 22955, Page 1343 of the Public Records of Miami-Dade County, Florida.

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in any way appertaining.

TO HAVE AND TO HOLD the same in fee simple forever.

THE GRANTOR hereby specially warrants the title to the said real property, and will defend the same, against the lawful claims of all persons claiming by, through or under the said Grantor.

A 48

OR BK 23074 PG 1484
LAST PAGE

THE GRANTEE by acceptance and recordation of this Special Warranty Deed, expressly and specifically approves, accepts, covenants and agrees to be bound by and to assume performance of all the applicable provisions and requirements set forth in the recorded Declaration of Condominium described above and all amendments and/or supplements thereto, which provisions and requirements are acknowledged by Grantee to be reasonable, fair, and all of which are incorporated herein by this reference.

IN WITNESS WHEREOF, the Grantor has caused these presence to be executed by its proper officer thereunto duly authorized, and its seal affixed, the day and year first above written.

Signed, sealed and delivered
in the presence of:

GRANTOR:

Barbara D. Knight
Printed Name: BARBARA D. KNIGHT
Bernice D. Knight
Printed Name: Bernice D. Knight

TL FONTAINEBLEAU TOWER LIMITED
PARTNERSHIP, a Florida limited partnership

BY: JS COLLINS, LLC, a Florida limited
liability company, as General Partner

BY: JS COLLINS II, LLC, a Florida limited
liability company, as managing member

BY: Jeffrey Soffer
as Managing Member

STATE OF FLORIDA }
COUNTY OF MIAMI-DADE }

I HEREBY CERTIFY THAT ON THIS 8th DAY OF February, 2005, PERSONALLY APPEARED BEFORE ME JEFFREY SOFFER, AS MANAGING MEMBER OF JS COLLINS II, LLC, A FLORIDA LIMITED LIABILITY COMPANY, AS MANAGING MEMBER OF JS COLLINS, LLC, A FLORIDA LIMITED LIABILITY COMPANY, AS GENERAL PARTNER OF TL FONTAINEBLEAU TOWER LIMITED PARTNERSHIP, A FLORIDA LIMITED PARTNERSHIP, TO ME KNOWN TO BE THE PERSON WHO SIGNED THE FOREGOING SPECIAL WARRANTY DEED, AS SUCH OFFICER, AND HE ACKNOWLEDGED THE EXECUTION THEREOF TO BE HIS FREE ACT AND DEED AS SUCH OFFICER, FOR THE USES AND PURPOSES THEREIN MENTIONED, AND THAT THE SAID INSTRUMENT IS THE ACT AND DEED OF SAID CORPORATION.

WITNESS MY HAND AND OFFICIAL SEAL AT MIAMI-DADE COUNTY, FLORIDA.



Bernice Knight
My Commission DD177808
Expires January 23, 2007

Bernice Knight
NOTARY PUBLIC - STATE OF FLORIDA

COMMISSIONED NAME OF NOTARY PUBLIC

PERSONALLY KNOWN ☒ OR PRODUCED IDENTIFICATION _____
TYPE OF IDENTIFICATION _____

A 49



CFN 2005R0138327
DR Bk 23074 Pgs 1642 - 1643 (2pgs)
RECORDED 02/10/2005 13:39:59
DEED DOC TAX 4,470.00
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

Prepared by
and Return to:
Palm Coast Title Company, LLC
Turnberry Plaza, Suite 500
2875 Northeast 191st Street
Aventura, Florida 33180

File No. 5516-1214B
Grantee(s) FIN:

[Space Above This Line For Recording Data]

Special Warranty Deed

This Special Warranty Deed made this 7th day of February, 2005 between TL Fontainebleau Tower Limited Partnership, a Florida limited partnership, whose address is c/o Turnberry Associates, 19501 Biscayne Blvd, Suite 400, Aventura, Florida 33180 of the County of Miami-Dade, State of Florida, Grantor, and Stuart Houser and Diane R. Houser, his wife whose address is 23 Pinckney Street, #4, Boston, MA 02114, of the County of Miami-Dade, State of Florida, Grantee. Grantor and Grantee are used for singular or plural, as context requires.

(Whenever used herein, the terms "Grantor" and "Grantee" include all parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations.)

WITNESSETH, that said Grantor, for and in consideration of the sum of Ten Dollars and other good and valuable considerations to said Grantor in hand paid by said Grantee, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said Grantee, the Grantee's heirs and assigns forever, the following described land, situate, lying and being in Miami-Dade County, Florida, to-wit:

Unit 1214, of FONTAINEBLEAU II, A CONDOMINIUM, according to the Declaration of Condominium thereof, as recorded on December 30, 2004 in Official Records Book 22955, Page 1343 of the Public Records of Miami-Dade County, Florida.

Parcel Identification Number: A Portion of 02-3223-002-0010

TOGETHER WITH all the tenements, hereditaments and appurtenances thereunto belong or in anywise appertaining.

THIS CONVEYANCE is subject to:

1. Taxes and assessments for the year 2005 and years subsequent thereto.
2. Conditions, reservations, restrictions, limitations, dedications and esements of record.
3. Zoning and other governmental restrictions and regulations.
4. Covenants, conditions, restrictions, exhibits, terms and other provisions of the Declaration of Condominium of Fontainebleau II, a Condominium, as recorded on December 30, 2004 in Official Records Book 22955, Page 1343 of the Public Records of Miami-Dade County, Florida.

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in any way appertaining.

TO HAVE AND TO HOLD the same in fee simple forever.

THE GRANTOR hereby specially warrants the title to the said real property, and will defend the same, against the lawful claims of all persons claiming by, through or under the said Grantor.

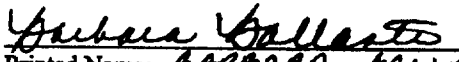
A 50 2

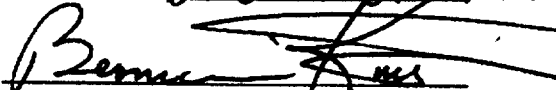
THE GRANTEE by acceptance and recordation of this Special Warranty Deed, expressly and specifically approves, accepts, covenants and agrees to be bound by and to assume performance of all the applicable provisions and requirements set forth in the recorded Declaration of Condominium described above and all amendments and/or supplements thereto, which provisions and requirements are acknowledged by Grantee to be reasonable, fair, and all of which are incorporated herein by this reference.

IN WITNESS WHEREOF, the Grantor has caused these presence to be executed by its proper officer thereunto duly authorized, and its seal affixed, the day and year first above written.

Signed, sealed and delivered
in the presence of:

GRANTOR:


Printed Name: BARBARA BALLANTE


Printed Name: Bernice D. Knight

TL FONTAINEBLEAU TOWER LIMITED
PARTNERSHIP, a Florida limited partnership

BY: JS COLLINS, LLC, a Florida limited
liability company, as General Partner

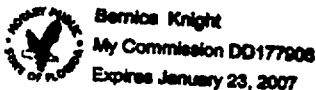
BY: JS COLLINS II, LLC, a Florida limited
liability company, as managing member

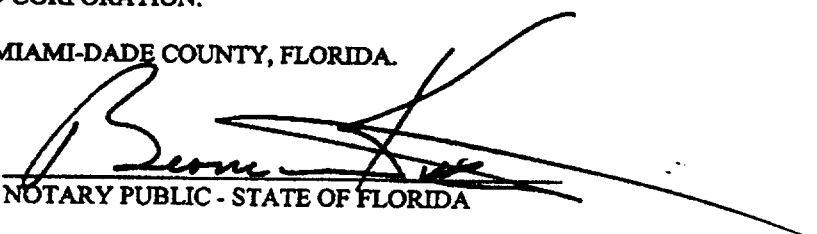
BY: 
Jeffrey Soffer,
as Managing Member

STATE OF FLORIDA }
COUNTY OF MIAMI-DADE }

I HEREBY CERTIFY THAT ON THIS 7 DAY OF February, 2005, PERSONALLY APPEARED BEFORE ME JEFFREY SOFFER, AS MANAGING MEMBER OF JS COLLINS II, LLC, A FLORIDA LIMITED LIABILITY COMPANY, AS MANAGING MEMBER OF JS COLLINS, LLC, A FLORIDA LIMITED LIABILITY COMPANY, AS GENERAL PARTNER OF TL FONTAINEBLEAU TOWER LIMITED PARTNERSHIP, A FLORIDA LIMITED PARTNERSHIP, TO ME KNOWN TO BE THE PERSON WHO SIGNED THE FOREGOING SPECIAL WARRANTY DEED, AS SUCH OFFICER, AND HE ACKNOWLEDGED THE EXECUTION THEREOF TO BE HIS FREE ACT AND DEED AS SUCH OFFICER, FOR THE USES AND PURPOSES THEREIN MENTIONED, AND THAT THE SAID INSTRUMENT IS THE ACT AND DEED OF SAID CORPORATION.

WITNESS MY HAND AND OFFICIAL SEAL AT MIAMI-DADE COUNTY, FLORIDA.



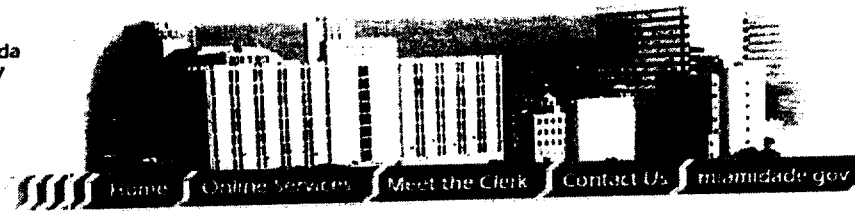

NOTARY PUBLIC - STATE OF FLORIDA

COMMISSIONED NAME OF NOTARY PUBLIC

PERSONALLY KNOWN ☒ OR PRODUCED IDENTIFICATION _____
TYPE OF IDENTIFICATION _____

A51

Clerk of Courts
11th Judicial Circuit of Florida
Miami-Dade County



County Recorder's Record Search Results

**** Click on the Clerk's File No to see more details on that record. ****
Party Name: TL FONTAINEBLEAU TOWER LTD

Img	Clerk's File No	GRP	Doc. Type	Rec. Date	Plat Book/Page	Rec. Book/Page	First Party (Code)	Second Party
	2005 R 138327	1	DEE	02/10/05	22955/1343	23074/1642	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	HOUSER, STUART &W
	2005 R 138356	1	DEE	02/10/05	22955/1343	23074/1803	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	FERA, FRANK &W
	2005 R 138413	1	DEE	02/10/05	22955/1343	23074/2072	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	CZR HOLDINGS CO
	2005 R 138444	1	DEE	02/10/05	22955/1343	23074/2174	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	COX, GERALD M
	2005 R 138477	1	DEE	02/10/05	22955/1343	23074/2315	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	BORROTO, ENRIQUE
	2005 R 138507	1	DEE	02/10/05	22955/1343	23074/2496	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	BORROTO, ENRIQUE
	2005 R 138540	1	DEE	02/10/05	22955/1343	23074/2661	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	STEIN, AVRAM & W
	2005 R 142986	1	DEE	02/11/05	22955/1343	23077/4837	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	ALVAREZ, OMAR
	2005 R 143085	1	DEE	02/11/05	22955/1343	23078/299	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	SMITH, FREDERICK D
	2005 R 148711	1	DEE	02/14/05	22955/1343	23081/4417	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	BERNAL, JAIRO &W

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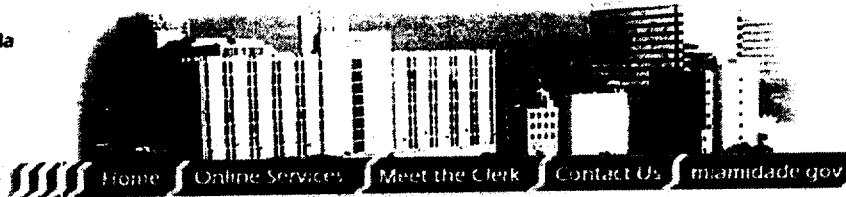
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Clerk of Courts
11th Judicial Circuit of Florida
Miami-Dade County



County Recorder's Record Search Results

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Party Name: TL FONTAINEBLEAU TOWER LTD

Img	Clerk's File No	GRP	Doc. Type	Rec. Date	Plat Book/Page	Rec. Book/Page	First Party (Code)	Second Party
	2005 R 148791	1	DEE	02/14/05	22955/1343	23081/4815	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	DAVIS, EDDIE M &W
	2005 R 148809	1	DEE	02/14/05	22955/1343	23081/4868	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	SUBODH C DEBNATH & LEELA RANI DEBNATH REVOCABLE LIVING TRUST TRU FOR
	2005 R 153072	1	DEE	02/15/05	22955/1343	23086/1142	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	FB II 1006 LLC
	2005 R 153099	1	DEE	02/15/05	22955/1343	23086/1254	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	RIFKIN, ROBERT
	2005 R 153130	1	DEE	02/15/05	22955/1343	23086/1394	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	TUGENDHAFT, TOBLE &W
	2005 R 153151	1	DEE	02/15/05	22955/1343	23086/1476	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	RUIZ, SANTIAGO &W
	2005 R 160649	1	DEE	02/16/05	22955/1343	23092/801	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	HAYDEN, JOHN T
	2005 R 160740	1	DEE	02/16/05	22955/1343	23092/1056	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	LINARDI, DOMINICK
	2005 R 160760	1	DEE	02/16/05	22955/1343	23092/1144	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	KUIJTEN TRUST TRU FOR
	2005 R 160761	1	DEE	02/16/05	22955/1343	23092/1146	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	CARMILI, TONY

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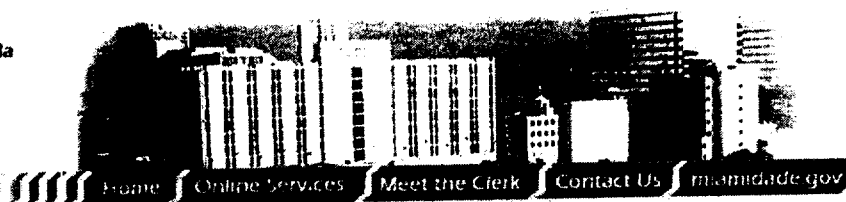
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Clerk of Courts
11th Judicial Circuit of Florida
Miami-Dade County



County Recorder's Record Search Results

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Party Name: TL FONTAINEBLEAU TOWER LTD

Img	Clerk's File No	GRP	Doc. Type	Rec. Date	Plat Book/Page	Rec. Book/Page	First Party (Code)	Second Party
	2005 R 160762	1	DEE	02/16/05	22955/1343	23092/1148	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	MATLOW, PAUL &W
	2005 R 160778	1	DEE	02/16/05	22955/1343	23092/1185	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	ARIAS DE PEREZ, FRANCY
	2005 R 173968	1	DEE	02/22/05	22955/1343	23102/661	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	KOSCICA, JAMES &W
	2005 R 174030	1	DEE	02/22/05	22955/1343	23102/824	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	HEMISUR CORP
	2005 R 174159	1	DEE	02/22/05	22955/1343	23102/1452	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	EBT HOLDING LLC
	2005 R 174292	1	DEE	02/22/05	22955/1343	23102/1955	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	MENTE CORP
	2005 R 174329	1	DEE	02/22/05	22955/1343	23102/2111	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	ALVAREZ, CESAR G &W
	2005 R 174406	1	DEE	02/22/05	22955/1343	23102/2461	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	ESPINOSA PAREDES, PABLO F
	2005 R 175495	1	DEE	02/22/05	22955/1343	23103/3054	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	MENTE CORP
	2005 R 175513	1	DEE	02/22/05	22955/1343	23103/3124	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	SEAFOOD INTL INVEST INC

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Clerk of Courts
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Miami-Dade County



County Recorder's Record Search Results

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Party Name: TL FONTAINEBLEAU TOWER LTD

Img	Clerk's File No	GRP	Doc. Type	Rec. Date	Plat Book/Page	Rec. Book/Page	First Party (Code)	Second Party
	2005 R 192083	1	DEE	02/25/05	22955/1343	23117/4654	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	THREE RIVERS PRIVATE LTD
	2005 R 192102	1	DEE	02/25/05	22955/1343	23117/4766	TL FONTAINEBLEAU TOWER LTD PARTNERHSIP (D)	ROSENBERG, RICHARD
	2005 R 194386	1	DEE	02/28/05	22955/1343	23119/3628	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	JLG RLTY LLC
	2005 R 194458	1	DEE	02/28/05	22955/1343	23119/3946	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	HARTKE, KEITH
	2005 R 194682	1	AFF	02/28/05	N/A	23119/4595	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	WHOM CONCERNED
	2005 R 202459	1	DEE	03/01/05	22955/1343	23125/3178	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	WESTREICH, LESLIE &W
	2005 R 202536	1	DEE	03/01/05	22955/1343	23125/3579	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	CASTRO BROS INVEST LC
	2005 R 202666	1	DEE	03/01/05	22955/1343	23125/4292	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	REDLICH, RON &W
	2005 R 202680	1	DEE	03/01/05	22955/1343	23125/4342	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	SHAH, HIMANSHU &W
	2005 R 208939	1	DEE	03/02/05	22955/1343	23130/4630	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	COOPER, MEL

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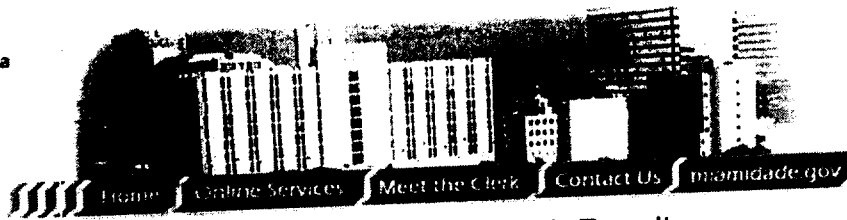
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County Recorder's Record Search Results

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Party Name: TL FONTAINEBLEAU TOWER LTD

Img	Clerk's File No	GRP	Doc. Type	Rec. Date	Plat Book/Page	Rec. Book/Page	First Party (Code)	Second Party
	2005 R 212501	1	DEE	03/03/05	22955/1343	23133/4970	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	FERNANDEZ, DANIEL
	2005 R 212538	1	DEE	03/03/05	22955/1343	23134/133	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	DRILLSOIL MB MIA CORP
	2005 R 212558	1	DEE	03/03/05	22955/1343	23134/283	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	ZILBERMAN, MICHAEL
	2005 R 212567	1	DEE	03/03/05	22955/1343	23134/298	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	HABIB, FARID &W
	2005 R 221301	1	DEE	03/07/05	22955/1343	23141/2216	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	FONTAINEBLEAU 18 LLC
	2005 R 221474	1	DEE	03/07/05	22955/1343	23141/2907	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	SENAT, ERIC
	2005 R 221663	1	DEE	03/07/05	22955/1343	23141/3619	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	COHEN, ZACHARIHA
	2005 R 221924	1	DEE	03/07/05	22955/1343	23141/4686	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	REICH, JOEL
	2005 R 222061	1	DEE	03/07/05	22955/1343	23142/219	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	DIAZ, GEORGE
	2005 R 224416	1	DEE	03/08/05	22955/1343	23143/4647	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	ZAR, BABAK

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11th Judicial Circuit of Florida
Miami-Dade County



County Recorder's Record Search Results

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Party Name: TL FONTAINEBLEAU TOWER LTD

Img	Clerk's File No	GRP	Doc. Type	Rec. Date	Plat Book/Page	Rec. Book/Page	First Party (Code)	Second Party
	2005 R 224535	1	DEE	03/08/05	22955/1343	23144/121	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	YAGHOUBI, TONY
	2005 R 227598	1	DEE	03/08/05	22955/1343	23146/4002	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	WHOM CONCERNED
	2005 R 227810	1	DEE	03/08/05	22955/1343	23146/4891	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	WAGNER, ELISABETH A
	2005 R 227815	1	DEE	03/08/05	22955/1343	23146/4901	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	FJ E INVEST LLC
	2005 R 227894	1	DEE	03/08/05	22955/1343	23147/348	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	CONTRERAS, JUAN C
	2005 R 227954	1	DEE	03/08/05	22955/1343	23147/828	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	LEHAVOT, YORAM &W
	2005 R 227959	1	DEE	03/08/05	22955/1343	23147/888	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	RAMIREZ, BELINDA
	2005 R 227961	1	DEE	03/08/05	22955/1343	23147/915	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	RAMIREZ REYES, FERNANDO
	2005 R 227962	1	DEE	03/08/05	22955/1343	23147/917	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	TRACH, RONALD L
	2005 R 227964	1	DEE	03/08/05	22955/1343	23147/943	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	CORTES, LUIS M

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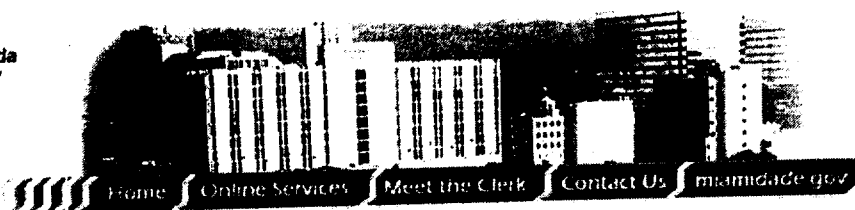
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County Recorder's Record Search Results

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Party Name: TL FONTAINEBLEAU TOWER LTD

Img	Clerk's File No	GRP	Doc. Type	Rec. Date	Plat Book/Page	Rec. Book/Page	First Party (Code)	Second Party
	2005 R 231950	1	DEE	03/09/05	22955/1343	23150/481	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	FONTAINEBLEAU II 1609 LLC
	2005 R 231991	1	DEE	03/09/05	22955/1343	23150/662	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	SILBER, GARY &W
	2005 R 232033	1	DEE	03/09/05	22955/1343	23150/829	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	FONTAINEBLEAU II 910 LLC
	2005 R 232138	1	DEE	03/09/05	22955/1343	23150/1252	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	GUBAIRA MENDOZA, LIRIS
	2005 R 232184	1	DEE	03/09/05	22955/1343	23150/1452	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	KADRON, HANNA
	2005 R 235160	1	DEE	03/10/05	22955/1343	23152/3583	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	ANDERSON, ARNOLD G W &W
	2005 R 238341	1	DEE	03/10/05	22955/1343	23155/3357	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	NME PARTNERS LLC
	2005 R 243838	1	DEE	03/11/05	22955/1343	23160/2800	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	GARDEAZABAL, CARMEN E
	2005 R 250095	1	DEE	03/14/05	22955/1343	23165/2653	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	WRIGHT, NEWTON F &W
	2005 R 250153	1	DEE	03/14/05	22955/1343	23165/2971	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	MEINSEN, RAYMOND S

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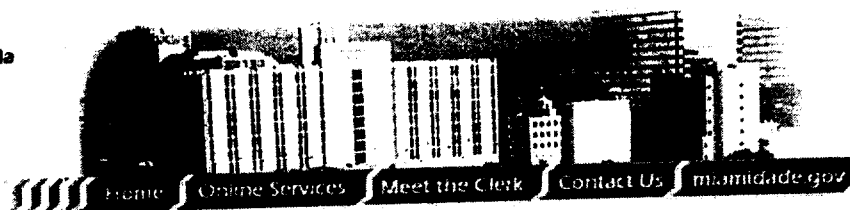
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Clerk of Courts
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Miami-Dade County



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Party Name: TL FONTAINEBLEAU TOWER LTD

Img	Clerk's File No	GRP	Doc. Type	Rec. Date	Plat Book/Page	Rec. Book/Page	First Party (Code)	Second Party
	2005 R 252161	1	DEE	03/15/05	22955/1343	23167/1868	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	KRAUS, CHAYA L
	2005 R 252449	1	DEE	03/15/05	22955/1343	23167/3154	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	MERCHAN, ARMANDO E
	2005 R 252495	1	DEE	03/15/05	N/A	23167/3429	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	WEBBER, CHRISTOPHER D &W
	2005 R 252527	1	DEE	03/15/05	22955/1343	23167/3588	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	RYBAK, OLEG
	2005 R 254123	1	DEE	03/15/05	22955/1343	23169/137	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	STEIN, NACHUM
	2005 R 254211	1	DEE	03/15/05	22955/1343	23169/484	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	RAO, CHRISTINE &H
	2005 R 254257	1	DEE	03/15/05	22955/1343	23169/691	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	HIRSCH, NECHAMA
	2005 R 254279	1	DEE	03/15/05	22955/1343	23169/787	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	HAKIMI, MIKA &W
	2005 R 254392	1	DEE	03/15/05	22955/1343	23169/1134	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	RAO, CHRISTINE &H
	2005 R 254462	1	DEE	03/15/05	22955/1343	23169/1387	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	STEIN, NACHUM

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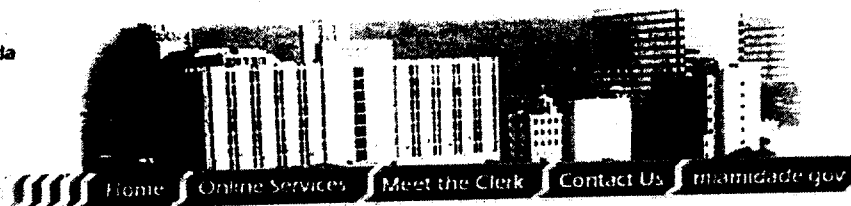
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Clerk of Courts
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County Recorder's Record Search Results

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Party Name: TL FONTAINEBLEAU TOWER LTD

Img	Clerk's File No	GRP	Doc. Type	Rec. Date	Plat Book/Page	Rec. Book/Page	First Party (Code)	Second Party
	2005 R 254505	1	DEE	03/15/05	22955/1343	23169/1550	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	TRACZ, EDWARD A &W
	2005 R 254552	1	DEE	03/15/05	22955/1343	23169/1736	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	STEIN, NACHUM
	2005 R 254582	1	DEE	03/15/05	22955/1343	23169/2047	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	SHANKER, MICHAEL &W
	2005 R 257175	1	DEE	03/16/05	22955/1343	23171/1581	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	BLEIER, ISIDORE
	2005 R 257210	1	DEE	03/16/05	22955/1343	23171/1697	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	BLEIER, ISIDORE
	2005 R 258612	1	DEE	03/16/05	22955/1343	23172/2430	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	MENENDEZ, JUAN C
	2005 R 263475	1	DEE	03/17/05	22955/1343	23176/4283	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	JANIS, RONALD D &W
	2005 R 263509	1	DEE	03/17/05	22955/1343	23176/4466	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	MASCARENHAS, TERENCE &W
	2005 R 263555	1	DEE	03/17/05	22955/1343	23176/4677	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	COHEN, ZACHARIHA
	2005 R 263644	1	DEE	03/17/05	22955/1343	23177/44	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	COHEN, ZACHARIHA

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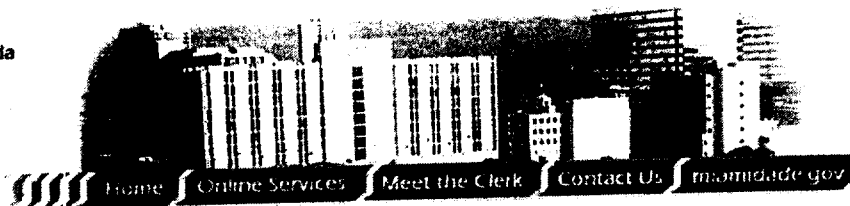
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Clerk of Courts
11th Judicial Circuit of Florida
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County Recorder's Record Search Results

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Party Name: TL FONTAINEBLEAU TOWER LTD

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	2005 R 263712	1	DEE	03/17/05	22955/1343	23177/455	TL FONTAINEBLEAU TOWER LTD PARTERSHIP (D)	WEINSTEIN, ROBERT &W
	2005 R 263750	1	DEE	03/17/05	22955/1343	23177/655	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	NGUYEN, TOM
	2005 R 269083	1	DEE	03/18/05	22955/1343	23182/502	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	BOIDI, GLORIA M &H
	2005 R 269088	1	DEE	03/18/05	22955/1343	23182/525	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	ANDRADE, LUIS M &W
	2005 R 269099	1	DEE	03/18/05	22955/1343	23182/590	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	LOBO, WARREN
	2005 R 269109	1	DEE	03/18/05	22955/1343	23182/662	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	LADICANI, MABEL
	2005 R 269124	1	DEE	03/18/05	22955/1343	23182/746	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	RYBAK, SERGEY
	2005 R 270171	1	DEE	03/18/05	22955/1343	23183/550	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	LANDINO, JOSE A &W
	2005 R 274260	1	DEE	03/21/05	22955/1343	23186/3009	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	BLEIER, MALKY
	2005 R 274313	1	DEE	03/21/05	22955/1343	23186/3357	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	MARCAVID LLC

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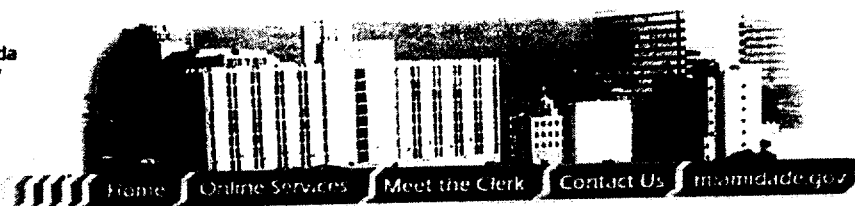
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Clerk of Courts
11th Judicial Circuit of Florida
Miami-Dade County



County Recorder's Record Search Results

**** Click on the Clerk's File No to see more details on that record. ****

Party Name: TL FONTAINEBLEAU TOWER LTD

Img	Clerk's File No	GRP	Doc. Type	Rec. Date	Plat Book/Page	Rec. Book/Page	First Party (Code)	Second Party
	2005 R 280719	1	DEE	03/23/05	22955/1343	23192/1461	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	SHINDER, MICHAEL
	2005 R 280854	1	DEE	03/23/05	22955/1343	23192/1808	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	ATLANTIC WIND II CORP
	2005 R 281463	1	DEE	03/23/05	22955/1343	23192/4139	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	JIBODH, SOPHIA A
	2005 R 283813	1	DEE	03/23/05	22955/1343	23194/2620	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	GFB2214 16 INC
	2005 R 283975	1	DEE	03/23/05	22955/1343	23194/3155	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	CHARUGUNDLA, MARGUERITE &H
	2005 R 284013	1	DEE	03/23/05	22955/1343	23194/3291	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	DEMEIRELES, KASHMIRA M &H
	2005 R 284218	1	DEE	03/23/05	22955/1343	23194/3967	TL FONTAINEBLEAU TOWER LTD (D)	HERNANDEZ, CARLOS &W
	2005 R 284709	1	DEE	03/23/05	22955/1343	23195/882	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	VICARMO CORP
	2005 R 284758	1	DEE	03/23/05	22955/1343	23195/1033	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	VICARMO CORP
	2005 R 287155	1	DEE	03/23/05	22955/1343	23197/118	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	BAYVIEW GO 2715 LLC

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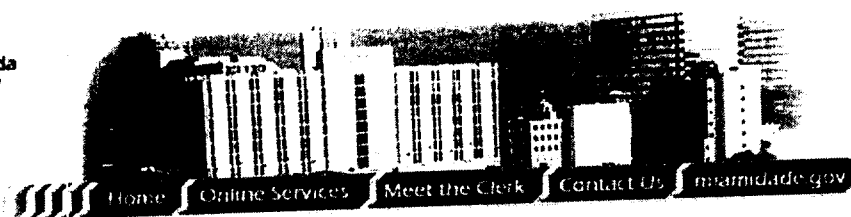
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Clerk of Courts
11th Judicial Circuit of Florida
Miami-Dade County



County Recorder's Record Search Results

**** Click on the Clerk's File No to see more details on that record. ****
Party Name: TL FONTAINEBLEAU TOWER LTD

Img	Clerk's File No	GRP	Doc. Type	Rec. Date	Plat Book/Page	Rec. Book/Page	First Party (Code)	Second Party
	2005 R 289669	1	DEE	03/24/05	22955/1343	23200/533	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	DIAMOND DOLPHIN CLU CORP
	2005 R 289670	1	DEE	03/24/05	22955/1343	23200/535	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	MARQUES, ROBERTO
	2005 R 290468	1	DEE	03/24/05	22955/1343	23200/4873	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	MILMAN, ELEONORA
	2005 R 290521	1	DEE	03/24/05	22955/1343	23201/267	TL FONTAINEBLEAU TOWER LTD (D)	ANDRESEN, CARL
	2005 R 290558	1	DEE	03/24/05	22955/1343	23201/436	TL FONTAINEBLEAU TOWER LTD (D)	DFB2314/16 INC
	2005 R 291342	1	DEE	03/24/05	22955/1343	23201/3870	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	RYBAK, OLEG
	2005 R 299183	1	DEE	03/28/05	22955/1343	23208/3443	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	ICAZA, JUAN C
	2005 R 299287	1	DEE	03/28/05	22955/1343	23208/3878	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	ROSE CONTE REVOCABLE TRUST TRU FOR
	2005 R 299328	1	DEE	03/28/05	22955/1343	23208/4096	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	PAOLA Y VELASCO LLC
	2005 R 305634	1	DEE	03/29/05	22955/1343	23213/4355	TL FONTAINEBLEAU TOWER LTD PARTERSHIP (D)	COHEN, YOSI

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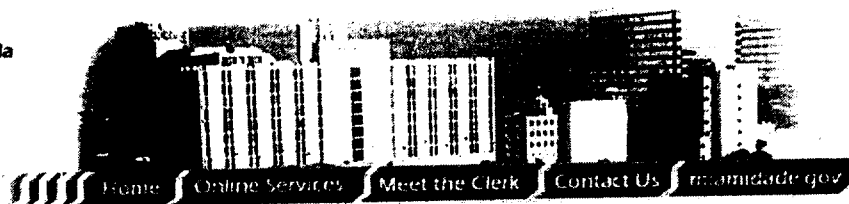
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Clerk of Courts
11th Judicial Circuit of Florida
Miami-Dade County



County Recorder's Record Search Results

**** Click on the Clerk's File No to see more details on that record. ****

Party Name: TL FONTAINEBLEAU TOWER LTD

Img	Clerk's File No	GRP	Doc. Type	Rec. Date	Plat Book/Page	Rec. Book/Page	First Party (Code)	Second Party
	2005 R 305687	1	DEE	03/29/05	22955/1343	23213/4624	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	HENRY ENTERP OF FLA
	2005 R 305775	1	DEE	03/29/05	22955/1343	23214/53	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	AMINOV, URI &W
	2005 R 310706	1	DEE	03/30/05	22955/1343	23217/4785	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	PETRUCCELLI, DAMIANO &W
	2005 R 310890	1	DEE	03/30/05	22955/1343	23218/272	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	MALIKA LLC
	2005 R 312411	1	DEE	03/30/05	22955/1343	23219/236	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	STAR ALIANCE INC
	2005 R 317984	1	DEE	03/31/05	22955/1343	23223/226	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	BRAVEM HOLDING CORP
	2005 R 325168	1	DEE	04/04/05	22955/1343	23229/4251	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	CANO HRNANDEZ, JOSE G
	2005 R 325231	1	DEE	04/04/05	22955/1343	23229/4466	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	ROSS, JAIME &W
	2005 R 325334	1	DEE	04/04/05	22955/1343	23230/187	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	NAMDAR, IGAL
	2005 R 327137	1	DEE	04/04/05	22955/1343	23231/3649	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	TARTELL, JODI

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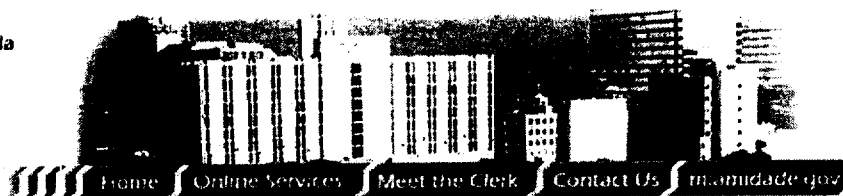
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Clerk of Courts
11th Judicial Circuit of Florida
Miami-Dade County



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Party Name: TL FONTAINEBLEAU TOWER LTD

Img	Clerk's File No	GRP	Doc. Type	Rec. Date	Plat Book/Page	Rec. Book/Page	First Party (Code)	Second Party
	2005 R 327238	1	DEE	04/04/05	22955/1343	23231/4160	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	SHAFER, CHARLES T
	2005 R 327520	1	DEE	04/04/05	22955/1343	23232/728	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	SUTHERLAND, VANESSA &H
	2005 R 327677	1	DEE	04/04/05	22955/1343	23232/1644	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	DAVIS, YOSEF
	2005 R 327710	1	DEE	04/04/05	22955/1343	23232/1807	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	DAVIS, YOSEF
	2005 R 331775	1	DEE	04/05/05	22955/1343	23235/3996	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	SUTHERLAND, DAVID &W
	2005 R 337210	1	DEE	04/06/05	22955/1343	23240/983	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	SERDYUK, SERGIY
	2005 R 344446	1	DEE	04/07/05	22955/1343	23246/2576	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	RAO, DAVE
	2005 R 344511	1	DEE	04/07/05	22955/1343	23246/2971	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	HAKIMI, OMID
	2005 R 344551	1	DEE	04/07/05	22955/1343	23246/3189	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	HAVERFORD LLC
	2005 R 344568	1	DEE	04/07/05	22955/1343	23246/3282	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	AZIZOGLU, MURAT &W

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11th Judicial Circuit of Florida
Miami-Dade County



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Party Name: TL FONTAINEBLEAU TOWER LTD

Img	Clerk's File No	GRP	Doc. Type	Rec. Date	Plat Book/Page	Rec. Book/Page	First Party (Code)	Second Party
	2005 R 344584	1	DEE	04/07/05	22955/1343	23246/3326	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	STOKES, MARK
	2005 R 344620	1	DEE	04/07/05	22955/1343	23246/3502	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	POLYGON CORP
	2005 R 344648	1	DEE	04/07/05	22955/1343	23246/3708	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	COOK, PETER H
	2005 R 344672	1	DEE	04/07/05	22955/1343	23246/3850	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	MELO, CESAR
	2005 R 344731	1	DEE	04/07/05	22955/1343	23246/4147	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	EISERMANN FAMILY LTD PARTNERSHIP
	2005 R 344749	1	DEE	04/07/05	22955/1343	23246/4265	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	2412 FONTAINEBLEAU LLC
	2005 R 344777	1	DEE	04/07/05	22955/1343	23246/4428	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	OMALLEY, WILLIAM F & W
	2005 R 344783	1	DEE	04/07/05	22955/1343	23246/4475	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	SILVER HEEL INC
	2005 R 344812	1	DEE	04/07/05	22955/1343	23246/4739	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	GOLDSTMAN INC
	2005 R 344923	1	DEE	04/07/05	22955/1343	23247/264	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	NASSIMIHA, YOSEFF

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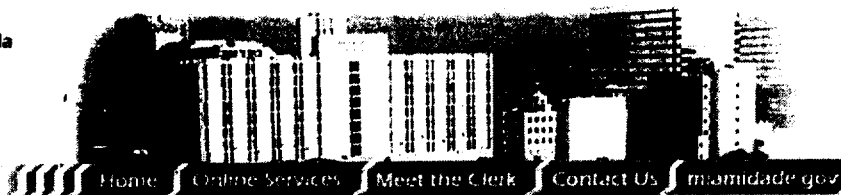
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11th Judicial Circuit of Florida
Miami-Dade County



County Recorder's Record Search Results

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Party Name: TL FONTAINEBLEAU TOWER LTD

Img	Clerk's File No	GRP	Doc. Type	Rec. Date	Plat Book/Page	Rec. Book/Page	First Party (Code)	Second Party
	2005 R 344953	1	DEE	04/07/05	22955/1343	23247/436	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	NASSIMIHA, YOSEFF
	2005 R 345106	1	DEE	04/07/05	22955/1343	23247/1236	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	2404 BLUE CORP
	2005 R 348583	1	DEE	04/08/05	22955/1343	23250/1726	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	JAKUBEC, PAVOL
	2005 R 349057	1	DEE	04/08/05	22955/1343	23250/4296	TL FONTAINEBLEAU TOWER LTD (D)	RAMOS, ERIC J
	2005 R 351042	1	DEE	04/08/05	22955/1343	23252/3829	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	COOPER, DAVID
	2005 R 351149	1	DEE	04/08/05	22955/1343	23252/4456	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	ACEVES, DANIEL
	2005 R 351237	1	DEE	04/08/05	22955/1343	23252/4848	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	KAUFMAN, ROBERT
	2005 R 351927	1	DEE	04/08/05	22955/1343	23253/3498	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	ROSENBLAKE LLC
	2005 R 352003	1	DEE	04/08/05	22955/1343	23253/3939	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	TALLURI, RAMESH
	2005 R 356016	1	DEE	04/11/05	22955/1343	23257/1160	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	RYAN, DANIEL A &W

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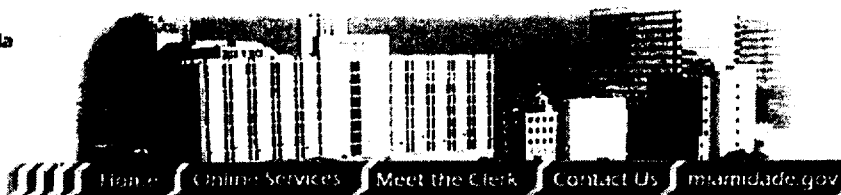
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Clerk of Courts
11th Judicial Circuit of Florida
Miami-Dade County



County Recorder's Record Search Results

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Party Name: TL FONTAINEBLEAU TOWER LTD

Img	Clerk's File No	GRP	Doc. Type	Rec. Date	Plat Book/Page	Rec. Book/Page	First Party (Code)	Second Party
	2005 R 356068	1	DEE	04/11/05	22955/1343	23257/1369	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	MACHOL, JAKUES A III &W
	2005 R 356102	1	DEE	04/11/05	22955/1343	23257/1553	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	ODNOC 1 LLC
	2005 R 356103	1	DEE	04/11/05	22955/1343	23257/1555	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	ODNOC II LLC
	2005 R 356133	1	DEE	04/11/05	22955/1343	23257/1698	TL FONTAINEBLEAU TOWER LTD PARTNERSHIP (D)	FAMADAS, NELSON &W

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**CITY OF
MIAMI BEACH
PLANNING DEPARTMENT**

FILE NO: _____
DATE: _____
MCR NO. _____
AMOUNT: _____
(For Staff Use Only)

**STANDARD APPLICATION FORM
DEVELOPMENT REVIEW BOARD HEARING**

1. The below listed applicant wishes to appear before the following City Development Review Board for a scheduled public hearing: NOTE: This application form must be completed separately for each applicable Board hearing a matter.

- ☐ BOARD OF ADJUSTMENT ☐ HISTORIC PRESERVATION BOARD
☐ DESIGN REVIEW BOARD ☐ PLANNING BOARD
☐ FLOOD PLAIN MANAGEMENT BOARD

NOTE: Applications to the Board of Adjustment will not be heard until such time as the Design Review Board, Historic Preservation Board and/or the Planning Board have rendered decisions on the subject project.

2. THIS REQUEST IS FOR:

- a. ☐ A VARIANCE TO A PROVISION(S) OF THE LAND DEVELOPMENT REGULATIONS (ZONING) OF THE CODE
b. ☐ AN APPEAL FROM AN ADMINISTRATIVE DECISION
c. ☐ DESIGN REVIEW APPROVAL
d. ☐ A CERTIFICATE OF APPROPRIATENESS FOR DESIGN
e. ☐ A CERTIFICATE OF APPROPRIATENESS TO DEMOLISH A STRUCTURE
f. ☐ A CONDITIONAL USE PERMIT
g. ☐ A LOT SPLIT APPROVAL
h. ☐ A HISTORIC DISTRICT/SITE DESIGNATION
i. ☐ AN AMENDMENT TO THE ZONING ORDINANCE OR ZONING MAP
j. ☐ AN AMENDMENT TO THE COMPREHENSIVE PLAN OR FUTURE LAND USE MAP
k. ☐ OTHER: _____

PUBLIC RECORDS NOTICE: ALL DOCUMENTATION, APPLICATION FORMS, MAPS, DRAWINGS, PHOTOGRAPHS, LETTERS AND EXHIBITS WILL BECOME A PERMANENT PART OF THE PUBLIC RECORD MAINTAINED BY THE CITY OF MIAMI BEACH PLANNING DEPARTMENT AND MAY, UNDER THE FLORIDA SUNSHINE LAWS, BE DISCLOSED UPON PROPER REQUEST TO ANY PERSON OR ENTITY.

3. NAME & ADDRESS OF PROPERTY: _____

LEGAL DESCRIPTION: _____

4. NAME OF APPLICANT

Note: If applicant is a corporation, partnership, limited partnership or trustee, a separate Disclosure of Interest Form (Pages 6/7) must be completed as part of this application.

ADDRESS OF APPLICANT _____ CITY _____ STATE _____ ZIP _____
BUSINESS PHONE # _____ RESIDENCE PHONE # _____ FAX # _____
CELL PHONE # _____ e-mail address: _____

5. _____
NAME OF PROPERTY OWNER (IF DIFFERENT FROM #4, OTHERWISE, WRITE "SAME")
If the owner of the property is not the applicant and will not be present at the hearing, the Owner/Power of Attorney Affidavit (Page 4) must be filled out and signed by the property owner. In addition, if the property owner is a

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corporation, partnership, limited partnership or trustee, a separate Disclosure of Interest Form (Pages 6 and 7) must be completed.

ADDRESS OF PROPERTY OWNER _____ CITY _____ STATE _____ ZIP _____
BUSINESS PHONE # _____ RESIDENCE PHONE # _____ FAX # _____
CELL PHONE # _____ e-mail address: _____

6. NAME OF ARCHITECT, LANDSCAPE ARCHITECT, ENGINEER, CONTRACTOR OR OTHER PERSON RESPONSIBLE FOR PROJECT DESIGN _____

ADDRESS (please circle one of the above) _____ CITY _____ STATE _____ ZIP _____
BUSINESS PHONE # _____ RESIDENCE PHONE # _____ FAX # _____
CELL PHONE # _____ e-mail address: _____

7. NAME OF AUTHORIZED REPRESENTATIVE(S), ATTORNEY(S), OR AGENT(S) AND/OR CONTACT PERSON:

a. NAME _____ ADDRESS _____ CITY _____ STATE _____ ZIP _____
BUSINESS PHONE # _____ RESIDENCE PHONE # _____ FAX # _____
CELL PHONE # _____ e-mail address: _____

b. NAME _____ ADDRESS _____ CITY _____ STATE _____ ZIP _____
BUSINESS PHONE # _____ FAX # _____
CELL PHONE # _____ e-mail address: _____

c. NAME _____ ADDRESS _____ CITY _____ STATE _____ ZIP _____
BUSINESS PHONE # _____ FAX # _____
CELL PHONE # _____ e-mail address: _____

NOTE: ALL ARCHITECTS, LANDSCAPE ARCHITECTS, ENGINEERS, CONTRACTORS OR OTHER PERSONS RESPONSIBLE FOR PROJECT DESIGN, AS WELL AS AUTHORIZED REPRESENTATIVE(S), ATTORNEY(S), OR AGENT(S) AND/OR CONTACT PERSONS, WHO ARE REPRESENTING OR APPEARING ON BEHALF OF A THIRD PARTY ARE REQUIRED TO REGISTER AS A LOBBYIST WITH THE CLERK, PRIOR TO THE SUBMISSION OF AN APPLICATION.

8. DESCRIBE PROPOSAL IN FULL: _____

9. TOTAL FLOOR AREA OF NEW BUILDING:
(excluding required parking, unenclosed stairways and balconies) _____ SQ. FT.

10. PRESENT ZONING CLASSIFICATION OF PROJECT SITE: _____

11. IF APPLICANT IS OWNER, INDICATE DATE ACQUIRED: _____

12. IF APPLICANT IS LESSEE, INDICATE DATE LEASED: _____

13. HAS A HEARING BEEN HELD BEFORE ANY OF THE BOARDS LISTED IN 1. ABOVE OR BEFORE THE CITY COMMISSION ON THIS PROPERTY WITHIN THE LAST FIVE YEARS? ☐ YES ☐ NO ☐ DON'T KNOW. IF YES, PROVIDE DATE(S), REASON AND OUTCOME OF HEARING(S): _____

14. IS THERE AN EXISTING BUILDING ON THE SITE? YES () NO (). IF YES, RESPOND TO QUESTIONS 15 AND 16 BELOW.

15. DESCRIBE ANY BUILDINGS EXISTING ON THE SITE AT PRESENT: _____

16. WILL ALL OR ANY PORTION OF THE BUILDING(S) INTERIOR AND/OR EXTERIOR, BE DEMOLISHED? ☐ YES ☐ NO

PLEASE EXPLAIN: _____

17. IS THERE A CONTRACT OR OPTION TO PURCHASE OR LEASE THE SUBJECT PROPERTY? ☐ YES ☐ NO. IF YES, IDENTIFY THE CONTRACT PURCHASER OR LESSEE AT THE BOTTOM OF PAGE 5, AND PROVIDE THE APPROPRIATE DISCLOSURE REQUIRED IN THE "DISCLOSURE OF INTEREST" FORM ON PAGE 6.

18. TOTAL FEE: (to be computed by staff) \$ _____

NOTE: APPLICATIONS FOR BOARD HEARINGS CANNOT BE ACCEPTED WITHOUT PAYMENT OF THE REQUIRED FEE. ALL CHECKS ARE TO BE MADE PAYABLE TO: "CITY OF MIAMI BEACH".

WHEN THE APPLICABLE BOARD REACHES A DECISION REGARDING THIS REQUEST, A *FINAL ORDER* WILL BE ISSUED STATING THE BOARD'S DECISION AND ANY CONDITIONS IMPOSED THEREIN. FINAL ORDERS ISSUED BY THE BOARD OF ADJUSTMENT, THE HISTORIC PRESERVATION BOARD AND THE PLANNING BOARD MUST BE RECORDED IN THE *OFFICE OF THE RECORDER, MIAMI-DADE COUNTY* AND THE ORIGINAL RETURNED TO THE BOARD SECRETARY. FINAL ORDERS FROM OTHER BOARDS WILL BE MAILED TO THE APPLICANT, THE ARCHITECT AND/OR THE CONTACT PERSON. IN NO CIRCUMSTANCES WILL A BUILDING PERMIT BE ISSUED BY THE CITY OF MIAMI BEACH WITHOUT A COPY OF THE PERTINENT *FINAL ORDER* BEING TENDERED ALONG WITH THE CONSTRUCTION PLANS.

In accordance with the Americans With Disabilities Act of 1990, persons needing special accommodation to participate in any proceedings should contact the Board's Administrator no later than four days prior to the proceeding at 305-673-7550 (voice). If hearing impaired, for sign language interpreters, five days or information on access for persons with disabilities call 305-673-7219 (TDD).

PLEASE COMPLETE ONE OR MORE OF THE FOLLOWING THREE AFFIDAVITS, AS APPLICABLE.

NOTE: THE PROPERTY OWNER MUST FILL OUT AND SIGN THE "OWNER/POWER OF ATTORNEY" PORTION IF THEY WILL NOT BE PRESENT AT THE HEARING.

TENANT or OWNER AFFIDAVIT (circle one)

I, _____, being first duly sworn, depose and say that I am the owner/tenant of the property described and which is the subject matter of the proposed hearing; that all the answers to the questions in this application and all sketch data and other supplementary matter attached to and made a part of the application are honest and true to the best of my knowledge and belief. I understand this application must be completed and accurate before a hearing can be advertised.

SIGNATURE

I, _____, hereby authorize the City of Miami Beach to enter my property for the sole purpose of posting a NOTICE OF PUBLIC HEARING on my property as required by law and I take the responsibility of removing this notice after the date of hearing.

SIGNATURE

Sworn to and subscribed before me this _____ day of _____, 200____. The foregoing instrument was acknowledged before me by _____, who has produced _____ as identification and/or is personally known to me and who did/did not take an oath.

STATE OF FLORIDA
COUNTY OF MIAMI-DADE
MY COMMISSION EXPIRES: _____

NOTARY PUBLIC

PRINT NAME

OWNER/POWER OF ATTORNEY AFFIDAVIT

I, _____, being duly sworn and depose say that I am the owner of the described real property and that I am aware of the nature and effect of the request for _____ relative to my property, which request is hereby made by me OR I am hereby authorizing _____ to be my legal representative before the Design Review Board/Historic Preservation Board.

SIGNATURE

I, _____, hereby authorize the City of Miami Beach to enter my property for the sole purpose of posting a NOTICE OF PUBLIC HEARING on my property as required by law and I take the responsibility of removing this notice after the date of hearing.

SIGNATURE

Sworn to and subscribed before me this _____ day of _____, 200____. The foregoing instrument was acknowledged before me by _____, who has produced _____ as identification and/or is personally known to me and who did/did not take an oath.

STATE OF FLORIDA
COUNTY OF MIAMI-DADE
MY COMMISSION EXPIRES: _____

NOTARY PUBLIC

PRINT NAME

CORPORATION or PARTNERSHIP AFFIDAVIT (circle one)

I, _____, being duly sworn, depose and say that I am the President/Vice President of

_____ and as such, have been authorized by the corporation to file this application that all answers to the questions in said application and all sketches, data and other supplementary matter attached to and made a part of the application are honest and true to the best of our knowledge and belief; that said corporation is the owner/tenant of the property described herein and is the subject matter of the proposed hearing. We understand this application must be completed and accurate before a hearing can be advertised.

PRESIDENT'S SIGNATURE (Corp. Seal)

PRINT NAME

ATTEST: SECRETARY'S SIGNATURE

PRINT NAME

I, _____, hereby authorize the City of Miami Beach to enter my property for the sole purpose of posting a NOTICE OF PUBLIC HEARING on my property as required by law and I take the responsibility of removing this notice after the date of hearing.

SIGNATURE

Sworn to and subscribed before me this ____ day of _____, 200__. The foregoing instrument was acknowledged before me by _____, who has produced _____ as identification and/or is personally known to me and who did/did not take an oath.

STATE OF FLORIDA
COUNTY OF MIAMI-DADE
MY COMMISSION EXPIRES:

NOTARY PUBLIC

PRINT NAME

CONTRACT FOR PURCHASE

If there is a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether a corporation, trustee or partnership, list the names of the contract purchasers below, including the principal officers, stockholders, beneficiaries or partners. Where the principal officers, stockholders, beneficiaries or partners consist of another corporation, trust, partnership or other similar entity, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the entity. If any contingency clause or contract terms involve additional individuals, corporations, partnerships or trusts, list all individuals and/or complete the appropriate disclosure clause above.*

NAME

DATE OF CONTRACT

NAME, ADDRESS, AND OFFICE

% OF STOCK

For any changes of ownership or changes in contracts for purchase subsequent to the date of the application, but prior to the dates of final public hearing, a supplemental disclosure of interest shall be filed.

CITY OF MIAMI BEACH
DEVELOPMENT REVIEW BOARD APPLICATION
DISCLOSURE OF INTEREST

1. CORPORATION

If the property which is the subject of the application is owned or leased by a CORPORATION, list the principal stockholders and the percentage of stock owned by each. Where the principal officers or stockholders consist of another corporation(s), trustee(s), partnership(s) or other similar entity, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the entity).*

CORPORATION NAME	
NAME, ADDRESS, AND OFFICE	% OF STOCK

CORPORATION NAME	
NAME, ADDRESS, AND OFFICE	% OF STOCK

IF THERE ARE ADDITIONAL CORPORATIONS, LIST OTHERS, INCLUDING CORP. NAME(S) AND EACH INDIVIDUAL'S NAME, ADDRESS, OFFICE AND PERCENTAGE OF STOCK, ON A SEPARATE PAGE.
NOTE: Notarized signature required on page 8

CITY OF MIAMI BEACH
DEVELOPMENT REVIEW BOARD APPLICATION

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DISCLOSURE OF INTEREST

2. TRUSTEE

If the property which is the subject of the application is owned or leased by a TRUSTEE, list the beneficiaries of the trust and the percentage of interest held by each. Where the beneficiary/beneficiaries consist of corporations(s), another trust(s), partnership(s) or other similar entity, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the entity.*

<hr/> TRUST NAME	
NAME, ADDRESS, AND OFFICE	% OF STOCK
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3. PARTNERSHIP/LIMITED PARTNERSHIP

If the property which is the subject of the application is owned or leased by a PARTNERSHIP or LIMITED PARTNERSHIP, list the principals of the partnership, including general and limited partners. Where the partner(s) consist of another partnership(s), corporation(s), trust(s) or other similar entity, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the entity.*

<hr/> PARTNERSHIP or LIMITED PARTNERSHIP NAME	
NAME, ADDRESS, AND OFFICE	% OF STOCK
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NOTE: Notarized signature required on page 8

4. COMPENSATED LOBBYIST:

The City of Miami Beach Code sub-section 118-31 requires the disclosure of any individual or group which has been, or will be, compensated to either speak in favor of or against a project being presented before any of the City's Development Review Boards, or not to speak at all. Please list below all persons or entities encompassed by this section.

	NAME	ADDRESS	PHONE #	TO SPEAK PRO CON	NOT TO SPEAK
a.	_____	_____	_____	_____	_____
b.	_____	_____	_____	_____	_____
c.	_____	_____	_____	_____	_____

Additional names can be placed on a separate page attached to this form.

*** Disclosure shall not be required of any entity, the equity interest in which are regularly traded on an established securities market in the United States or other country, or of any entity, the ownership interests of which are held in a limited partnership consisting of more than 5,000 separate interests and where no one person or entity holds more than a total of 5% of the ownership interests in the limited partnership.**

The applicant, hereby attests that the disclosure information listed on this application is a full disclosure of all parties of interest in this application to the best of my knowledge and belief.

Applicant also hereby acknowledges that any approval granted by the Board so applied to, shall be subject to any and all conditions imposed by said Board and by any other Board having jurisdiction, and that the project must also comply with the code of the City of Miami Beach and all other pertinent ordinances.

PERSON SUBMITTING APPLICATION:

Signature

Print Name

STATE AFFILIATION WITH APPLICANT (i.e. Agent, Architect, Attorney, Contractor, etc.)

Phone #

Sworn to and subscribed before me this ____ day of _____, 200__. The foregoing instrument was acknowledged before me by _____, who has produced _____ as identification and/or is personally known to me and who did/did not take an oath.

STATE OF FLORIDA
COUNTY OF MIAMI-DADE
MY COMMISSION EXPIRES:

NOTARY PUBLIC

PRINT NAME

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July 11, 2003

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